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STUDIES IN ECONOMICS AND POLITICAL SCIENCE.

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## ENGLISH RAILWAYS

THEIR DEVELOPMENT AND THEIR RELATION  
TO THE STATE





MAP OF  
ENGLAND & WALES,  
— SHewing THE —  
SYSTEMS OF RAILWAYS,  
NOW UNDER THE CONTROL OF THE  
PRINCIPAL RAILWAY COMPANIES

N.B. The Minor Systems of Railways are not shown upon this Map.

Railways open are shown thus  
Railways unopen



# ENGLISH RAILWAYS

THEIR DEVELOPMENT AND  
THEIR RELATION TO THE  
STATE

BY

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## INTRODUCTION

THIS book aims at presenting a detailed historical account of the consolidation of English railways up to the year 1900. It cannot claim to cover the internal history of the consolidation movement ; that can only be done when the story of each of the great English railway companies is written. But it is hoped that it deals fully with an aspect that has a greater general interest and to a far greater degree requires examination —namely, the external relations of the railways, amalgamation as affecting railway communications in general, and as viewed by Parliament and the public, and controlled by Parliament in the interests of the public.

The study was undertaken with the belief that a historical contribution to the railway question would have some practical value. It was carried out in a library that had been collected for the special purpose of railway research.<sup>1</sup> It has been strictly limited to historical treatment, partly because the history was in itself a large subject, partly because it appeared that before modern railway problems could be studied the essential preliminary requirement was a statement of the historical facts unencumbered with judgments or opinions on those problems.

Here and there it has been impossible to avoid comments which bear directly upon railway questions of the present time. But these do not affect the purely historical scope of the thesis. If only it is allowed that the facts have been adequately set out, then we shall be content to let others draw conclusions from them, and shall be well satisfied with having provided the necessary historical foundation upon which they may base their arguments.

<sup>1</sup> The Acworth Transport Collection at the London School of Economics.

## INTRODUCTION

Consolidation is a large part of the history of the English railways. In tracing its story in the following pages it has frequently been necessary to examine matters of general railway history that at first sight may appear to be distinct from the subject, but which we believe will be found to be not merely relevant, but necessary to the history of consolidation. But the difficulty of adhering strictly to our subject has been increased by the fact that the general history of the railways is little known, and no satisfactory work exists in English to which we could refer. We must plead guilty to having occasionally made short digressions into the general history. It has been done in the hope of thereby presenting a fairly complete record of the main facts concerning the growth of the great systems and their relations to the State.

The materials for English railway history are voluminous, and we have drawn upon many sources. To simplify references, a list of some of the works most frequently quoted is given at the head of Chapter I, but a bibliography has not been attempted ; it would have been misleading, because in so many cases the book or paper to which reference is made contains only one or two small points of value or interest. That, indeed, is a feature of railway research ; many sheaves of trivial and ephemeral writings must be winnowed in order to obtain a few grains of desirable information. There is only one book, and that a German one, that covers the whole subject. We refer to Gustav Cohn's remarkable work which, though nearly forty years old and though written primarily with reference to the aspect of law and public policy, nevertheless remains, to the present day, the one great study of English railway history that has been made. Cohn has a tendency to favour the State ownership of railways, but it must be admitted that he practically obtains impartiality, and enables his readers to form their own judgments, by quoting so constantly and

fully from the best sources ; we have attempted to follow his example in the present work.

Cohn drew largely upon official records. These and the periodical literature make up the great bulk of the material for railway history. As to the first—in the Parliamentary Papers, Hansard's Debates, and the Statutes—there is copious information on all questions that come within the purview of Parliament and Government Departments, and in the Parliamentary Papers there is an ample supply of maps. Moreover, in Reports of Inquiries, notably those of the Royal Commission on Railways, 1865-67, and of the Joint Select Committee on Railway Amalgamation, 1872, there are valuable summaries of railway history.

The periodical literature is fairly comprehensive. Railway newspapers cover the whole period from 1835 onwards,<sup>1</sup> and though they are never impartial, they were in earlier times far less the organs of railway companies in general, and far more the champions of one set of companies against another set. They are particularly useful in supplying the reports of railway companies' meetings which are otherwise difficult of access ; and their weekly records of stock-exchange prices are also of considerable value.

The pamphlet literature is fairly abundant, but with some exceptions in the earlier days of the railway system, it is of trifling importance, save as an indication of certain popular views.

Two branches of railway work—the engineering and the legal—have each an adequate literature. The former is outside our scope. The legal question enters largely into the history of railway consolidation, and the existence of ample treatises on railway law has greatly simplified our work. We should have hesitated

<sup>1</sup> The *Railway Magazine*, which later changed its title to *Herapath's Railway Magazine*, and is generally known as "Herapath," was first published in 1835, and continued in existence until in 1904 it was united with the *Railway Times*, which has been published continuously from 1838 onwards. The *Railway News* dates from 1864.

to touch upon legal questions, though it might have been necessary to do so, had they not been dealt with authoritatively by legal writers. As it is, we have obtained much assistance from the law-books, and so far from feeling obliged to enter into questions of law, we have rather felt that it was our duty merely to indicate the legal authorities on the questions, and then to pass on without further comment.

The general literature on English railways is scanty. Guide-books and year-books provide a continuous record of the outstanding facts, though their scope is limited ; the treatises of the forties, in particular Dr. Lardner's attempt at a comprehensive encyclopædia, gave early promise of a literature worthy of the subject. Since then the story of a few of the great companies has been written—in a popular rather than a scientific manner—but on the whole it is remarkable how little serious attention has been paid to the growth of a railway system that has long been considered the finest in the world.

The remaining introductory remarks we have to make are upon the definition and arrangement of our subject. We have already used the word amalgamation ; it is ugly and clumsy, but from the beginning it was the term most commonly used to describe the consolidation, fusion, absorption, or union of railways. In its broadest sense it was thus defined in a Report of the Railway Department of the Board of Trade in 1845 :<sup>1</sup> “We may premise that under the term ‘Amalgamation Bills’ we include all applications to Parliament for powers either to consolidate the stocks of two or more independent railway companies or to authorize the purchase or leasing of one railway by the proprietors of another, or in any other way to transfer the control and management of a railway from the hands of the company to whom it was originally entrusted by Parliament to those of another company constituted for different purposes.”

<sup>1</sup> Accounts and Papers, 1845, XXXIX. (279).

This, however, is the loose extensive definition of amalgamation. We shall use the word more precisely to indicate those operations in which the stocks of the combined companies were put together, and which were thus complete amalgamations uniting the finances as well as the operations of the companies concerned. The Board of Trade took care in all their earlier papers to make this distinction between complete amalgamation ("amalgamation" simply, as they termed it) and the other operations which they classed as purchase or lease; and there is good ground for keeping them distinct. A purchase may, it is true, effect the same purpose as a fusion or amalgamation of the finances of two companies, and a lease may practically terminate the independent existence of one company and transfer it to another company. But just as writers on money have to insist upon distinguishing hard cash from substitutes which may claim to be "practically as good as gold," so here, to avoid confusion and to secure a scientific classification, we must differentiate between amalgamation and the other forms of combination.

In the first place, amalgamation—that is, the consolidation of stocks—was an operation that could be applied to two or more equally powerful companies, whereas purchase was not; it would be difficult or impossible for a company to raise the capital required to purchase another of its own size. In practice, purchase denotes the purchase of a smaller company by a larger one.

But, secondly, the distinction is still more necessary in the case of leases, because it was very common for an established company to lease a new undertaking, and work it from the time of its first opening. In such cases the leased undertaking was practically a branch. Often the established company had financed or controlled the new project, or there had been an understanding between them, so that when the new

## INTRODUCTION

one was leased there was no question of loss of independence or cessation of competition. Clearly, therefore, a lease may vary infinitely in its importance, and those cases in which there had never been more than one company for working purposes are in a different category to those which made a real change in the distribution of railway power. The latter may rank with amalgamations, but there remains a further objection to classing them with amalgamations. Short term leases were common, and they were frequently terminated by complete fusion, sometimes after the lease had been renewed. Therefore, whether they be classed by themselves or counted with amalgamations, they may cause duplication. To take one instance : the Bourne and Essendine Railway, finally united with the Great Northern Railway in 1864, would be counted four times over, owing to renewals of lease, in a table that classed amalgamation and lease together. Further, the lease was a temporary arrangement, and it could be, and not infrequently was, effected by agreement instead of by special Act of Parliament. In this way it shades into other temporary or less advanced forms of combination—working agreements, running powers, and pooling agreements—which are quite obviously distinct from the operations which unite companies decisively and irrevocably. These looser forms of combination, indeed, are to a large extent outside our scope. They have been specially treated in a recent work—Mr. Robertson's “Combination among Railway Companies”—and their legal aspect has also been fully dealt with in the Reports of the Board of Trade Conference, 1909, and of the Departmental Committee on Railway Agreements and Amalgamations, 1911. In the present work they are noticed, not for their intrinsic interest, which is largely a modern matter, but for their incidental bearing upon the amalgamation movement in the past.

From what we have said, it will be gathered that the available statistics of consolidation are often unsatis-

factory owing to the difficulty of reckoning those operations which were not complete amalgamations. It is not practicable to make a comprehensive table for the whole period up to 1900 showing in figures the results of sixty-six years of consolidation. Here and there, for comparative purposes, we have collected statistics of the mileage and the capital affected by Acts sanctioning amalgamation, but we have not attached any great importance to the figures. Some railway subjects may lend themselves to statistical treatment, but the history of English railway consolidation does not. The fact that so many miles have been absorbed is of little interest unless the character of the miles is known. An insignificant amalgamation so far as mileage is concerned—for instance, that of the Charing Cross Railway with the South Eastern Railway—may involve a greater capital operation than that connected with other fusions of ten times the mileage. Mileage and capital statistics may be combined, where obtainable, and still the results may be misleading, partly, as we have shown, because of the difficulties in the way of reckoning leases, much more because there is for many purposes an important distinction between two kinds of amalgamation. The union of systems which together formed a continuous route—the operation known as “end-on” amalgamation—was natural, was generally considered desirable, and was probably in many cases inevitable. The union of parallel competing systems was quite a different matter. It went on steadily, but it was often disliked and considered unnatural, and was the cause of most of the doubts and fears to which the progress of consolidation gave rise. A statistical record of amalgamation would hardly be satisfactory unless it distinguished these two kinds of amalgamation, and that is impossible, because so frequently both the end-on and the competitive principle were involved in one and the same operation. The railway map of England gives a far more satisfactory picture of amalgamation than can be obtained from

statistical tables. A comparison of the maps of 1848, 1872, and the present day<sup>1</sup> shows very plainly the continuous increase in the extent of railway communications and the decrease in the number of companies. Proof of this, however, is hardly required; the physical results of amalgamation are well known. What is little known or imperfectly appreciated is the economic and political side of the question, the problems of competition and monopoly, of State intervention and control, upon the history of which we have concentrated our attention in the following pages.

A chronological order of treatment has been observed as far as possible, but there are some necessary exceptions. The railway events of the forties are of such overwhelming importance that they occupy a large part of the book. In Chapter II. a yearly record of the chief consolidations in this period is given. Then in the five following chapters different aspects of the question in this period are treated sectionally. But in dealing with the canals in Chapter IV. the story is carried on after the forties and completed, in order to avoid the confusion that would have been caused by inserting portions of canal history in subsequent chapters. And in other places, where the work of Parliamentary inquiries is being dealt with, it has been thought best to some extent to invert the order of events, first describing the actual results of the inquiries, and then going back to recommendations and to what was not accomplished. Such a method is open to criticism, but experiment seemed to show that it was more suitable than any other, and we hope readers may allow that it has the practical advantages of putting them in immediate possession of the main facts, and making it easier for them to follow a complicated tale.

<sup>1</sup> Map of 1848, "showing the amalgamation of railways, the existing lines, and those in progress" (*Accounts and Papers, 1847-1848*, vol. lxiii., No. 510); the map of 1872, attached to the Report of the Joint Select Committee on Amalgamation (Appendix Y), and the Railway Clearing-House map of 1904.

## CONTENTS

	PAGE
<b>INTRODUCTION</b>	<b>V</b>
<b>CHAPTER</b>	
I. TURNPIKE ROADS, CANALS, AND RAILWAYS: PRECEDENTS FOR RAILWAY AMALGAMATION ; THE BEGINNING OF THE MOVEMENT	I
II. THE PROGRESS OF CONSOLIDATION IN THE FORTIES : THE AMALGAMATION OF THE MIDLAND AND OF THE LONDON AND NORTH WESTERN	23
NOTE ON THE GAUGE QUESTION	57
III. RAILWAY PROBLEMS AND PARLIAMENT : THE BEGINNING OF STATE CONTROL	59
IV. THE CANALS AND RAILWAY COMPETITION : RAILWAY AND CANAL AMALGAMATION	81
V. GLADSTONE'S ACT	102
VI. ATTEMPTS TO ESTABLISH A CONTROLLING DEPARTMENT: DALHOUSIE'S BOARD, AND THE RAILWAY COMMISSIONERS OF 1846	125
VII. THE CRISIS OF 1847: AMALGAMATION AND THE RAILWAY CLEARING-HOUSE	158
VIII. CARDWELL'S COMMITTEE OF 1853, AND THE TRAFFIC ACT OF 1854	179
IX. 1854-1871. THE ATTITUDE OF PARLIAMENT—THE ROYAL COMMISSION ON RAILWAYS — AMALGAMATION AND THE CRISIS OF 1866	205

## CONTENTS

CHAPTER		PAGE
X. 1872-1873.	PART I.—THE RAILWAY CAMPAIGN OF 1872	236
	PART II.—THE INQUIRY OF 1872	251
	PART III.—THE ACT OF 1873	266
XI. 1874-1900.	THE STRUGGLE BETWEEN THE GREAT WESTERN AND THE SOUTH WESTERN — THE SHEFFIELD AND SOUTH EASTERN COMPANIES AND SIR EDWARD WATKIN — THE WORKING UNION OF THE S.E. AND C.R.	280
	CONCLUSION	315
	INDEX	325

## LIST OF MAPS

1. MAP OF ENGLAND AND WALES, SHOWING THE SYSTEMS OF RAILWAYS NOW UNDER THE CONTROL OF THE PRINCIPAL RAILWAY COMPANIES	<i>frontispiece</i>
1872	
2. MAP OF ENGLAND SHOWING EXISTING RAILWAYS, JUNE, 1848	<i>facing page</i> 332

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### NOTE ON REFERENCES TO ACTS OF PARLIAMENT.

ACTS are grouped as (1) "Public General," (2) "Local," (3) "Private." All Acts for railways and canals are "Local," and it has not been thought necessary to state this in each case in referring to them. It should, however, be noticed that up to the year 1798 Acts were grouped as (1) "Public," and (2) "Private," and the latter were not usually published. The full designation of such Acts is therefore given where they are referred to. (For an account of the system of grouping and publishing Acts of Parliament see Fred. Clifford, "History of Private Bill Legislation," 1887, vol. i., pp. 267-269.)

# ENGLISH RAILWAYS

## CHAPTER I

TURNPIKE ROADS, CANALS, AND RAILWAYS :  
PRECEDENTS FOR RAILWAY AMALGAMATION ; THE  
BEGINNING OF THE MOVEMENT

IN a Parliamentary Report of 1808 the following statement is made :<sup>1</sup>

“The importance of land carriage to the prosperity of a country need not be dwelt upon. Next to the general influence of the seasons, upon which the regular supply of our wants and a great proportion of our comforts so much depend, there is, perhaps, no circumstance more interesting to men in a civilized state than the perfection of the means of interior communication. It is a matter, therefore, to be wondered at that so great a source of national improvement has hitherto been so much neglected. Instead of the roads of the Kingdom being made a great national concern, a number of local trusts are created, under the authority of which large sums of money are collected from the public and expended without adequate responsibility or control. Hence arise a number of abuses, for which no remedy is provided, and the resources of the country, instead of being devoted to useful purposes, are too often improvidently wasted. Your Committee do not mean . . . to recommend that the turnpike roads of the

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<sup>1</sup> First Report from the Committee on the Highways of the Kingdom, May 11, 1808 (225), pp. 6, 7.

Kingdom should be taken into the hands of Government, but they are of opinion that a Parliamentary Commission ought to be appointed . . . before whom any complaints of improper expenditure, by which so many innocent creditors suffer, should be brought."

This interesting quotation corrects the common error of supposing that the English roads had been rendered satisfactory by the coming of the turnpike system in the early eighteenth century.<sup>1</sup> That system had produced an improvement; but in 1808 the science of road-making was still in its experimental stages with us. Telford and McAdam belong to the years immediately following.

But the Report deserves to be further quoted, because it shows the private nature of road enterprises and the absence of any national policy in regard to their conduct, and suggests a parallel with railway history. The following passage anticipates to a remarkable extent the argument on the question of Parliament and the railways which is developed in the present book: "A Parliamentary Commission ought to be appointed, to whom every turnpike trust should be obliged annually to transmit a statement of its accounts. . . . Before these Commissioners any complaints of improper expenditure ought to be brought; . . . nor is this all the advantage that would be derived from the proposed establishment. Under the direction of such an institution, the necessary experiments might be tried for ascertaining the best mode of forming roads, . . . of keeping them in repair. . . . All these are points which cannot be brought to that state of perfection of which they are capable . . . by Committees of the House occasionally appointed, however zealous in the cause. Such great

<sup>1</sup> The first Turnpike Act (for a part of the London to York road) dates from 1663, but there was not another till the reign of William III., and it was only towards the middle of the eighteenth century that the system became common. (Ashley, "Economic History," bk. I., p. 97, refers to the plan adopted in London, 1356, of charging tolls on carts and pack-horses entering or leaving the City.)

objects, which would add millions to the national income, and would increase the comfort of every individual in the Kingdom, can only be successfully carried through by a great and permanent institution."

Parliament was constantly inquiring into the state of the roads in the years after 1808,<sup>1</sup> but a rival system of transport was already in existence. Railways were mentioned in a letter attached to the Report we have quoted, and written to Sir John Sinclair by Mr. Adam Walker:<sup>2</sup>

"On examining the turnpike roads in the vicinity of London, I find the materials by which they are repaired seldom last longer than a month or six weeks in winter before they are ground to atoms and raked off the road as puddle; . . . in some places the tolls have been doubled—yet are the roads sometimes almost impassable—I therefore do humbly conceive that cast-iron is the only material that can make a road permanent, cheap, and lasting, and stand the wear and tear of heavy carriages. Iron railways have hitherto been only adopted as a substitute for canals in uneven countries. Now, if a plan could be devised of a railway that would not interfere with the profits, management, economy, or track of the present turnpike roads; that everything might go on as usual with respect to the tolls, the gates, the carriages, the Statute-work, etc.; and that railways might be brought into general use by such IMPERCEPTIBLE GRADATIONS as to be what the public so much want, without detriment to any individual—such a railway I humbly conceive to be practicable."<sup>3</sup>

<sup>1</sup> Since the above was written a comprehensive work on the subject has appeared, "English Local Government: The Story of the King's Highway," by Sidney and Beatrice Webb, 1913. In chap. vii. a valuable account of the turnpike system is given, with exhaustive references. Mr. Sidney Webb most kindly advised me on the question of turnpike consolidation, and my information has been chiefly drawn from sources recommended by him, and fully examined in his work.

<sup>2</sup> "Report on Highways," 1808. Appendix 16 (B).

<sup>3</sup> His plan was to introduce at first only one line of railway. He thought this less likely than two rails to arouse prejudice; it was also

Innovation by imperceptible gradation, however, was not to be expected in the expanding industrial England of the early nineteenth century. The Government did not conduct experiments; its function was to step in and arrange the affairs of the turnpikes when they were failing and in debt, and similarly to give its attention to the canals when their existence was becoming endangered by the competition of the railways. As to the latter, Mr. Walker's remarks are of some interest in pointing to the way in which railways began as poor substitutes for canals; he might have added, however, that they were to a larger extent auxiliaries and feeders to the waterways. When roads were indifferent and the art of macadam was unknown, it had occurred to some forgotten inventor that the waggon-ways might be rendered smoother by laying beams for the wheels to run upon. The idea of running a wheelbarrow upon a plank would naturally suggest it; but, simple as it was, the origin of the railway lies in it. In mining districts this plan of a wooden wheel track has been traced back to the sixteenth century. Flat iron bars first replaced wood about 1738; cast-iron bars—at Coalbrookdale—about 1767.<sup>1</sup> The great canal era was then opening,

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cheaper. Carriages would run with one wheel on a broad (one foot wide) iron rail, the other on the ordinary road. The idea of rails on the turnpike roads was not original; it had been put forward by Dr. James Anderson in 1800 (Francis, vol. i., p. 49). It was again strongly recommended in 1836, when railway construction had made some considerable strides, by Henry Fairbairn in his most interesting treatise on the "Political Economy of Railroads" (chap. ii.). He claimed that only if laid on the turnpike roads could railways be constructed cheap enough for commercial success. The same idea may be found as late as 1850 in a pamphlet ("Amalgamation of Railways and Highways") by William Bridges Adams, who again was strongly of opinion that railway construction as then carried out could not pay.

<sup>1</sup> For dates, see John Francis, "History of the English Railway," 1851, vol. i., p. 47; W. Hasell Wilson, "Railroad History" (Philadelphia), 1895, p. 5. The latter is only a very short volume, but interesting on account of the experience of the writer. Mr. Wilson was born in 1811, and was working on the survey of the Philadelphia and Columbia Railroad in 1828. After long service as an officer he became President of the Philadelphia and Erie Railroad in 1873, and

and it soon became fairly common to increase the traffic area of a canal system by building a branch railway as a feeder. Thus, the Trent and Mersey Navigation Company obtained power from Parliament as early as 1775 "to make a Railway from the canal-side at Froghall to several lime-works near Caldon, in Staffordshire, and to make other Railways, not exceeding one thousand yards in length, to several coal-mines."<sup>1</sup> In 1801 an Act was passed "for making and maintaining a Railway from the town of Wandsworth to the town of Croydon"<sup>2</sup>—commonly known as the Surrey Iron Railway. This is very frequently cited as the first Railway Act;<sup>3</sup> it was, however, only an advance on the Trent and Mersey Act mentioned above. Both Acts contained powers for making both canals and railways, but in the Act of 1801 railway construction for the first time takes the leading place. A glance at the preamble shows this :

"Whereas the making of a railway for the passage of waggons and other carriages from a place called Ram Field in Wandsworth . . . to Croydon . . . and the making a Dock or Bason for Barges . . . with a lock, cuts, and other works into Wandsworth Creek, and thereby into the Thames will be of very great advantage to severa considerable manufactories in the neighbourhood . . . by opening a cheap and easy communication for the conveyance of coals, corn," etc.

was still President of a division of the Pennsylvania in 1894. See also J. S. Jeans' "Jubilee Memorial of Railway System," 1875, chap. ii.

<sup>1</sup> Public Acts, 16 George III., c. 32. The Trent and Mersey Company had been incorporated by 6 George III., c. 92. The Peak Forest Canal is another good example of a navigation company with "railway" powers. The Act of 1794 (34 George III., c. 26) incorporating the company is entitled, an "Act for making a navigable canal . . . and a communication by Railways or Stone Roads." The latter were not to exceed two miles in length. They are still worked by the G.C.R., and are described in the *G.C.R. Journal*, December, 1905, p. 122; January, 1906, p. 148.

<sup>2</sup> Private Acts, 41 George III., c. 33.

<sup>3</sup> The "Penny Cyclopaedia" of the Society for the Diffusion of

It is unnecessary here to trace the growth of this system of railways, or more properly, tramways, in the years that followed. In all, nineteen more companies<sup>1</sup> were sanctioned by Parliament before there was passed in 1821 the famous Act "for making a Railway or Tramroad from the River Tees at Stockton to Witton Park Colliery."<sup>2</sup> This was the original Stockton and Darlington Act. It was of the same type as all its forerunners, and did not contemplate the use of steam power. The locomotive engine, however, had been experimented with by Trevithick in South Wales as early as 1802 ; introduced by George Stephenson on the Killingworth Railway in 1814, it had since been working regularly there,<sup>3</sup> and he succeeded in 1823 in persuading the directors of the Stockton and Darlington Company to procure another Act empowering them "to make and erect such and so many locomotive or movable engines" as they thought proper, as well as certain permanent or fixed engines.<sup>4</sup> The line was opened for traffic on September 27, 1825,<sup>5</sup> but its great engineer had to achieve further triumphs before

Useful Knowledge (Charles Knight and Co., 1841) follows this practice in an article on "British Railways" (p. 261), but it gives some useful information about earlier companies. The first Railway Act known to the writer of the article is a private one of 1758, respecting a waggon-way for conveyance of coal to Leeds. Tables are given for every railway since 1801, showing the site, powers, date of opening, capital, etc.

<sup>1</sup> The Acts are given in the list of Railway Acts, Appendix E. K., to the Report of the Royal Commission, 1867 ; also in Francis, vol. i., pp. 57-63 ; and in Porter's "Progress of the Nation," § 3, chap. v. There are also useful lists of Railway Acts up to 1838 in Appendices 29 and 30 to the Second Report of the Select Committee on Railways [1839 (517), X]. No. 29 is chronological, No. 30 alphabetical.

<sup>2</sup> Local Acts, 12 George IV., c. 44.

<sup>3</sup> Dictionary of National Biography, "Stephenson, George" (1781-1848). See also J. Wolfe Barry and Sir F. J. Bramwell, "Railways and Locomotives," pp. 297-300 ; and Francis, vol. i., pp. 48-50.

<sup>4</sup> Local Acts, 4 George IV., c. 33, §§ 7 and 8. See also J. S. Jeans, "Jubilee Memorial of the Railway System," chap. vi.

<sup>5</sup> See E. Mackenzie and M. Ross, "View of County of Durham, 1834," vol. ii., p. 47 : "This great work was completed September,

the superiority of the locomotive engine over haulage by means of fixed engines was finally and generally recognized. He had been appointed engineer of the Liverpool and Manchester Railway when it was sanctioned by Parliament in 1826, and while planning and directing the construction of the line (and winning fresh fame in the difficulties he surmounted), he was also strenuously engaged in advocating the use of locomotive engines. The directors eventually decided to test Stephenson's ideas by means of an open competition—the famous locomotive trials at Rainhill, October 6, 1829.<sup>1</sup> In these, the striking success of Stephenson's engine, the Rocket, won him the support of former opponents, and produced a widespread impression of the possibilities of rapid steam locomotion. The *Scotsman*, in commenting on the trials, said : "The experiments at Liverpool have established principles which will give a greater impulse to civilization than it has ever received from any single cause since the Press first opened the gates of knowledge to the human species at large."

After this decisive event, there was still to be a struggle between the supporters of the locomotive and the advocates of the atmospheric system of propulsion, but we need not enter into that question ; it is largely technical and of little practical importance. Whatever the merits of the atmospheric principle, it was too late for its upholders in 1845 to challenge the locomotive system which was so widely established by then ; only fourteen years after the Rainhill trials Stephenson had

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1825. . . . Several coaches drawn by horses travel daily at the rate of seven to nine miles an hour on this railroad between Stockton and Darlington. There are also six locomotive engines, besides horses, employed in the transit of coal, etc., and there are two engines stationed on the line to assist the loaded waggons over the elevated parts of the road."

Dictionary of National Biography (*loc. cit.*) ; C. G. Bowen Cooke, "British Locomotives," 1893 (chap. ii., "The Rainhill Trials").

travelled, in nine hours, by railway from London to Newcastle.<sup>1</sup> The question had been decided in 1829 when the iron tramway became the locomotive railway, and the main period of the history of the railway system had opened.

In the following years larger and more ambitious projects were put forward. The first trunk line, the London and Birmingham, was sanctioned in 1833, and railway promotion quickly became "a fashion and a frenzy."<sup>2</sup> Thirty-five railway Bills were passed in 1836,<sup>3</sup> twenty-nine of which were for new railways, and involved an estimated expenditure of £17,595,000. In 1837 the number of Bills was larger, but the majority of them were for giving additional powers to existing companies, and only sixteen were for new lines. The movement had been too rapid and speculative, and was being checked by a severe financial crisis.<sup>4</sup> Its progress up to 1837, and its gloomy termination, are, to some extent, an anticipation of the great railway mania of the forties and the crisis of 1847, though, even among the rash and extravagant projects of the latter period, it is difficult to find a parallel either with the contest waged in 1836 and 1837 between the five separate bodies of promoters of a railway to Brighton, or with the gambling spirit which drove the shares of these rival projects above par. Before they made terms with each other, the five companies were said to have spent £193,000

<sup>1</sup> Dictionary of National Biography (*loc. cit.*). For an appreciation of the atmospheric principle, see the Report from the Select Committee on Atmospheric Railways (1845, X., No. 252). For a fair and detailed criticism, and for the reasons of its failure in practice, see J. C. Jeaffreson and W. Pole, "Life of Robert Stephenson," vol. i., chap. xiv., with a bibliography of the subject at the end of the chapter.

<sup>2</sup> Francis, vol. i., p. 290.

<sup>3</sup> Twenty-nine of these Bills were for English railways, six for Scotch, and four for Irish.

<sup>4</sup> Francis, vol. i., pp. 297-283; Leone Levi, "History of British Commerce," Part III., chap. viii.

in their struggle for the Act of 1837, which sanctioned a railway from Croydon to Brighton.<sup>1</sup>

In 1838 four hundred and ninety miles of railway were open in England and Wales. The London and Birmingham line had been opened throughout on September 17 of that year—a memorable date. The London and Greenwich and the London and Croydon were also open. The Great Western Railway, the London and South Western Railway, and the Eastern Counties were under construction. The Grand Junction, from Birmingham to Warrington, had been opened in July, 1837; its northern continuations—the Warrington and Newton and the North Union—completed the chain of railway communication between London and Preston. At Newton, this chain was crossed by the Liverpool and Manchester, and Lancashire possessed another completed railway in the Manchester, Bolton, and Bury. The Stockton and Darlington, the Leeds and Selby, the Leicester and Swannington, and a few small systems made up the tale. Already the framework of our railway system had been outlined, and construction was being pushed on in many parts of the country. Meanwhile, the process of consolidation had commenced, and without further introductory matter we may approach that subject.

It has been said that the history of English railways is the history of amalgamation. The preceding sketch has at least contradicted this, and, it is hoped, has suggested that there is much interesting historical matter directly concerning railways long before the first amalgamations were considered. Railway history, too, is

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<sup>1</sup> Francis, vol. i., p. 236; *Railway Magazine*, 1837, pp. 124 and 374. In March, 1836, the shares of Stephenson's London and Brighton Company were quoted as high as 20 (£5 paid up), while the rival company, known as Rennie's, was quoted as high as 5 (£2 paid up). In December, 1837, when the shares of the two projects had been combined, they were quoted at  $2\frac{1}{4}$  (£5 paid up). In March, 1836, the London and Birmingham shares stood at 124 (£50 paid up), and the G.W.R. at 33 (£10 paid up).

closely interwoven with every strand of the national story in the nineteenth century ; commerce, industry, finance, politics, and general welfare are connected with and react upon it at every juncture.

But the saying mentioned need not be too critically examined. It expresses well enough the important part which amalgamation has played in the growth of our railway system, and is little more than the application to a particular branch of transport of a generalization which covers every field of activity in the last hundred years—namely, the growth of combined effort and of production on a large scale.

— The railways of England grew up piecemeal and haphazard in short, unconnected lengths. They were converted from local lines into a national system by amalgamation, consolidation, or fusion, and our immediate object is to examine the precedents for these unifying operations. They began on a large scale, and practically without any previous experiments, as far as railways were concerned, in the early forties. The growth of the railway system and the obvious advantages of intercommunication made it far from unexpected—indeed, very natural—that short lines forming a continuous route should be made into one company. But it is worth while noticing a few precedents which made the idea of amalgamation more readily acceptable than it would otherwise have been.

— In the case of canals there are one or two examples of canal consolidation proper before the era of canal and railway amalgamation. The first example is the absorption, by the Birmingham Canal Navigations Company, of the Birmingham and Fazeley Canal Navigations Company. This was in 1784.<sup>1</sup> An Act of 1813 may be found which “united and consolidated”

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<sup>1</sup> Report of the Royal Commission on Canals, 1910, p. 10. The Birmingham Company was incorporated in 1768 ; the Birmingham and Fazeley was only authorized in 1783, the year before its amalgamation.

## TURNPIKES, CANALS, AND RAILWAYS 11

the Chester canal and the Ellesmere canal;<sup>1</sup> another, of 1821, "incorporated the proprietors of the North Wilts canal with the proprietors of the Wilts and Berks canal and consolidated their powers in one Act of Parliament."<sup>2</sup> But canal amalgamations in the early days were few and far between, as neither economic nor financial difficulties called for them. On the one hand, the canal companies usually left the carriers' work to other parties, and were merely the owners of the waterway, collecting tolls from its users. In the case of railways, of course, there was a great difference. The early Railway Acts, based upon canal and turnpike Acts and reproducing, in clause after clause, the phraseology long common to both, stipulated that the railways should be open to the vehicles of all comers, but the difficulties of operation and the demands of safety had, by 1840, made it impossible<sup>3</sup> to continue this freedom of use; the railway companies became the carriers as well as the owners, and the individual who tried to run his own engine and carriages on a line would find himself unable to put down at a station, and unable to get water or fuel. This being so, and transfer from one system to another being very difficult (necessitating, perhaps on account of a break of gauge, perhaps from lack of combined action by the companies, the unloading of goods and re-loading into different

<sup>1</sup> Local Acts, 53 George III., c. 80.

<sup>2</sup> Local Acts, 1 and 2 George IV., c. 97.

<sup>3</sup> Second Report from Select Committee on Railways [1839 (517), X., p. vi]. "The intention of Parliament" (to open railways to all carriers) "cannot be carried into effect; the payment of legal tolls is only a very small part of the arrangement necessary to open railroads to public competition; any person with the mere authority to place an engine or carriages on a railway would be practically unable to supply his engine with water, or to take up or set down his passengers. . . . The safety of the public also requires that upon every railway there should be one system of management under one superintending authority. . . . On this account it is necessary that the Company should possess a complete control over their line of road, although they should thereby acquire an entire monopoly."

trucks) the railways had an incentive to consolidation which the canals lacked.

But, secondly, the canals did not trouble to consolidate, because they were prosperous enough without combining their operations. Had they felt the pinch of financial depression, it is probable they would have made some effort to economize, by replacing with one management the handful of small and wasteful organizations which often controlled a single route. It is true, as we shall see, they did not make much effort in this direction even when, towards the middle of the nineteenth century, they were beginning to feel the full effects of railway competition,<sup>1</sup> but then they were too disorganized, and in some cases broken up by railway purchases which had secured a link in the chain of water communication, to combine effectively. They needed power from without to bring them together. In the present day a Royal Commission has examined their case, and has recommended that consolidation should be arranged for them by the Government.

Turning to the road system, we find there fairly ample precedent for amalgamation, and we find, too, that the poverty and indebtedness of the turnpikes as much as their inefficiency was the reason why the

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<sup>1</sup> See below, p. 93. The Royal Commission on Canals, 1909 (in their final Report, p. 15), state that in the case of canals there was, before railways developed, a tendency towards the absorption of the small canals into a limited number of large systems. This is incorrect. The Report supports this statement by instancing "the present Birmingham Canal System" and the Shropshire Union. These two companies prove very little, as they are the two exceptional cases of canal amalgamation. The Birmingham amalgamation of 1784 (p. 11, note 1) was not increased until 1840, when the Wyrley and Essington was added to the system. The Dudley Canal Navigations Company was also absorbed in 1846. As to the Shropshire Union, it practically began with the Ellesmere and Chester amalgamation in 1813; in 1845 the Birmingham and Liverpool was added to it; two more companies, the Montgomery and the Shrewsbury, were added in 1846. Thus, even in these exceptional cases, there was more amalgamation after railways had taken up the principle than before.

Government intervened to consolidate the trusts. Inquiries into the defects of the road system were conducted by Parliament before the time<sup>1</sup> of the Select Committee on Highways of 1808 which we have quoted, and especially into the question of easier access to Ireland by the Holyhead road. Grants were made to Commissioners in 1815<sup>2</sup> for carrying out improvements which the trusts along this road were unable to effect. Telford finally established his reputation in this work, but the grants proved insufficient, and the ultimate outcome of Government subsidy to the trusts was their replacement by Commissioners appointed by Parliament.<sup>3</sup> This measure, largely the work of Sir Henry Parnell, proved satisfactory; the surface of the road at length came nearer to that perfection of which one reads so much in the eulogies of coaching days, for money was easily obtained and laid out in a scientific and comprehensive manner; the jobbery and waste of the local trusts was gone, and the creditors had some relief from their sufferings.

Before this great consolidation of the London and Holyhead road,<sup>4</sup> an interesting innovation of a similar kind had been made at Bristol in 1819.

<sup>1</sup> Besides committees to consider the Turnpike Acts, of which there is an example in 1795, there were Parliamentary Inquiries into the state of the roads, the regulation of turnpikes, etc., from 1806 onward. For these and the whole literature of the subject see Dorothy Ballen, "Bibliography of Road-making and Roads in the United Kingdom," 1914.

<sup>2</sup> Public Acts, 55 George III., c. 152. The sum granted was £20,000. The Commissioners, in their First Report [May 6, 1816, Reports of Commissioners, 1816 (459), VIII.], stated that all the information they had gathered showed the "total inadequacy of the turnpike tolls to meet the expense of improvements without further aid from Parliament." They suggested that £10,000 more be granted next session, so that Telford might keep at work the skilled road-makers he had got together.

<sup>3</sup> Public Acts, 59 George III., c. 30, "Act for vesting in Commissioners road from Shrewsbury to Bangor Ferry and discharging the Trustees"; 4 George IV., c. 74—"for improving road from London to Holyhead."

<sup>4</sup> Before this, and before the Bristol consolidation following, is the Isle of Wight consolidation of May 21, 1813 (53 George III., c. 92,

"Whereas," says the Act for repairing, etc., the various roads round the city of Bristol,<sup>1</sup> "under various Acts for making and repairing the Bristol roads, considerable sums of money have been borrowed on credit of the tolls authorized by the said Acts, which still remain due and owing," and whereas the roads cannot be improved "unless the powers of the said Acts are enlarged . . . and the tolls increased, and it is expedient that the same should be consolidated and comprised in one Act"; therefore the old Acts were repealed, and the numerous turnpike roads put in charge of a large body of trustees, in whom all the powers, rights, and property of the old trusts were vested.<sup>2</sup>

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Local Acts), which enacts that the several parishes, etc., in the Island, "shall be consolidated" for the purpose of widening, repairing, etc., the roads. It was not, however, a consolidation of turnpike trusts, as these did not apparently exist in the island. The Commissioners, under the Act of 1813, erected turnpikes, etc., and took tolls: double ones on Sunday (Section 22).

<sup>1</sup> Local Acts, 59 George III., c. 95.

<sup>2</sup> Clause XXIV. In subsequent reports or statistics of turnpike trusts—in which the trusts are most commonly collected under counties—"Bristol (nine districts)" is the usual denomination of this consolidated trust. The mileage is given as 168 in a Return of the length of each trust [Accounts and Papers, 1847-48 (752), LX.]. This is exceptional, three figures being very rare; the consolidated Isle of Wight roads are given as 400 miles, the Metropolitan as 120. The London to Holyhead figures do not appear, the trusts included being returned separately under their respective counties. In South Wales six large trusts comprise 1,013 miles of road (the 1,063 English trusts only cover a total of 20,000 miles). Dissatisfaction with the exactions of the trusts had led to the "Rebecca Riots" in 1842 and 1843, and had resulted in these six consolidations of all the trusts in each of the six counties of South Wales. After 1840, when the question of turnpike consolidation was frequently raised in Parliament (with no effect, see p. 17 below), this South Wales consolidation was pointed to as a most satisfactory operation. In the House of Commons, on February 3, 1846 (Hansard, vol. 83, p. 450), Sir W. Joliffe asked whether a measure similar to the South Wales one could not be adopted for the English roads. Sir J. Graham, in reply, reminded the House of the difference in the debt in the two cases. In South Wales the debt had only amounted to £280,000; the Legislature had helped to extinguish £200,000 of this. But the gross debt of the English turnpikes was £9,000,000. The Government were not prepared to do anything.

This operation seems to have been a voluntary one. McAdam was largely instrumental in bringing it about. No pressure was put upon Bristol by the central government, and the turnpike trusts were not apparently in such abject poverty as to compel interference by the local authorities. But although this was rather exceptional, the operation was otherwise similar to the rest of the turnpike consolidations, and it is interesting to notice that at Bristol as in the other cases it was a consolidation of management, not of charges that was carried out—*i.e.*, of the trusts, not of the tolls. In the later railway amalgamations it was customary to make some reduction of rates. In the case of a railway there is good reason for doing this, both on account of the actual reduction in proportionate cost for carrying anything for a long distance instead of a short one, and also on ordinary business grounds to encourage long distance traffic by cheap rates. The latter idea did not appeal to consolidators of turnpike trusts, and the former did not apply as a vehicle did the same amount of damage per mile to a road whether it travelled one or a hundred miles. In cases where the toll gates of two trusts were obviously too near to each other when the road became one property, one gate might be removed, as was the case in the Bristol consolidation, but double tolls were allowed at the remaining gate.<sup>1</sup>

It is worth noticing, too, that the idea of financial unity was not realized in this case, or, indeed, in many others, the money taken by the consolidated trust being spent as nearly as possible upon the portion of road in respect of which it was received.<sup>2</sup>

The best-known road consolidation, however, was that of the North London turnpikes. A committee inquired into “the several turnpike trusts within ten miles of London” in 1825.<sup>3</sup> They reported that “if

<sup>1</sup> Clause XXXIII.

<sup>2</sup> Clause LV.

<sup>3</sup> Reports of Committees, 1825 (355), V.

the funds of Trusts had been skilfully applied and proper materials obtained and used for the last seven years according to the recommendations of the Committee of this House who first instituted inquiries on this subject, the roads would have been in a much more perfect state of repair, and the debts of the trusts much reduced and the tolls consequently lower. . . . Your committee observe that no less than four several Acts of Parliament constituting four separate trusts—*viz.*, City Road, Old Street, Bethnal Green, and Shoreditch, with different bodies of Trustees, and all the expenses attendant on four distinct establishments, comprise within them only a distance of four and a half miles. . . . Your Committee deem it proper to refer to the Reports of Committees of 1819, 1820, and 1821, in all of which it is strongly recommended to consolidate the whole of the trusts round London."

In 1826 Parliament acted upon this Report, and an Act was passed "for consolidating the trusts of the several turnpike roads in the neighbourhood of the Metropolis, north of the River Thames."<sup>1</sup>

The consolidation proved a satisfactory operation. The bonded debt of the Metropolitan trusts concerned was £123,000 in 1827; in March, 1840, it was reduced to £65,000, and during that time more than £45,000 had been spent on improvements.<sup>2</sup>

A few examples of small consolidations may be found in succeeding years,<sup>3</sup> but the operation was not

<sup>1</sup> Local Acts, 7 George IV., c. 142. The Act was amended by 7 George IV., c. 59 (Public Acts). The amendments are toll alterations, powers for new roads, and the removal of certain roads (in future to be "common highways") from the Commissioners' charge.

<sup>2</sup> Report of the Commissioners for inquiring into the state of the roads in England and Wales, 1840, XXVII (256). The Report cites "the Metropolitan Trusts and the systems established in Scotland and the Isle of Wight" as proofs of the advantages of consolidation; the Holyhead and Bristol roads are not mentioned (p. 10).

<sup>3</sup> E.g., Newmarket roads; Local Acts, 10 George IV., c. 53; *Ibid.*, c. 83, "Blue Vein and Bricker's Barn Turnpike Roads" in Wilts and Somerset.

copied to any large extent by the thousand and more trusts with which England and Wales were covered about 1830.<sup>1</sup> Committees continued to urge consolidation,<sup>2</sup> but Parliament was beginning to realize by 1840 that the railway was a more worthy object of attention.<sup>3</sup> A Royal Commission reported in that year on turnpikes, and the extent to which railways would damage them;<sup>4</sup> it favoured the collection of the trusts into district unions, but no legislation followed the report,<sup>5</sup> and without the help of Parliament it seemed that the decaying trusts had not the energy to combine. From 1860 onwards Parliament intervened; not, however, to consolidate the trusts, but year by year to wind them up and arrange for their liquidation.

We have tried to show that the principle of combination was known, and that the railway companies had several good precedents to follow. The plan of combined action—common enough already in many

<sup>1</sup> For turnpike figures, see the *Journal of the Royal Statistical Society*, January, 1839. There were 1,025 trusts (England and Wales) in 1821; 1,119 in 1836. The writer of the article groups the trusts according to counties, and calculates the time it would take each group to pay off its debts if its whole annual income were applied to that alone.

<sup>2</sup> The opinions of these committees are given at ample length in Appendices I. to VIII. of the Report of the Royal Commission on Roads, 1840.

<sup>3</sup> Frederick Clifford, "History of Private Bill Legislation," 1887, vol. ii., pp. 22, 23.

<sup>4</sup> A Select Committee also inquired into turnpikes and railroads in 1839 (IX., No. 295).

<sup>5</sup> The Report is quoted on the previous page above (note 2). It is only fourteen pages, but full of interest to anyone who wishes for a picture of the trusts in 1840. Six hundred pages of appendices follow, in which may be found a mass of information concerning the individual trusts. The Report is indexed in Indexes to Reports of Commissioners, 1800-1846 [Accounts and Papers, 1847 (71), LVIII., Part II.]. The list of indexes at the beginning of this paper mentions all the Reports of turnpike commissioners published. Later information may be obtained from Accounts and Papers, 1860 (39), LXI. : Return of Turnpike Trusts.

great industries, practised for more than a century among the coal-owners of Newcastle, and tentatively applied to joint stock enterprises in the form of gas companies—had been successfully adopted by several turnpike roads,<sup>1</sup> which were to some extent even more than canals, the great model for the early railways.

The first example of railway consolidation or amalgamation (as it is commonly termed almost from the start) occurs in 1834.<sup>2</sup> On May 22 of that year an Act was passed “for uniting the Wigan Branch Railway Company and the Preston and Wigan Railway Company.”<sup>3</sup> The preamble declared the expediency of uniting the two companies, and forming “one continuous railway” from Preston to Newton; and it was enacted in the third clause that “from the passing of the Act every person now a proprietor in either of the said undertakings . . . shall be united . . . into one company . . . by the name and style of the North Union Railway Company.” The main line of the Preston and Wigan Company was not yet completed, so it was enacted<sup>4</sup> that meanwhile the new North Union Company should keep separate accounts for the main line of the Wigan Branch Company, and pay the net surplus

<sup>1</sup> An interesting example of combined action may be found in Benjamin Winstone's “Epping and Ongar Highway Trust” (1891, private circulation), which contains an “Agreement between trustees of different turnpike roads for erecting one weighing-machine for the use of such roads.”

<sup>2</sup> Accounts and Papers, 1847-48 (510), LXIII. Return of all existing amalgamations (July 17, 1848) with map. The return distinguishes between transfers by amalgamation, by purchases, and by leases, giving the transfers, with the mileage affected, in alphabetical order, and with fairly ample information, where necessary, in a column of “Remarks.”

<sup>3</sup> Local Acts 4 and 5 William IV., c. 25. The Wigan Branch Railway (incorporated 1830, 11 George IV., and 1 William IV., c. 56) ran from Wigan to join the Liverpool and Manchester Railway at Newton, nineteen miles. The Preston and Wigan Railway (1831, 1 William IV., c. 56) ran from Preston to meet the Branch Railway Company at Wigan, seven miles.

<sup>4</sup> Section 156. The next section allows the closing of this separate account if all the stock-holders agree to it.

of receipts to those persons holding numbers 1 to 700 of the North Union Joint Stock. Another clause reminds us how early this is in railway history ; the charges for carriage are dealt with, but only as an eventuality "if the company think proper to use locomotives";<sup>1</sup> that is to say, it was not certain that the company would be carriers on, as well as owners of, the railway.

The advantages of this Wigan amalgamation are obvious after a glance at the map of Lancashire. The two uniting companies together provided a single direct route from Preston to Newton; at Newton the line was crossed by the Liverpool and Manchester Railway; from Newton there extended southward the Warrington and Newton Railway, which linked up at Warrington with the projected Grand Junction line to Birmingham. Besides the physical reason for uniting two companies which together formed one continuous line, there were, however, the financial reasons so commonly governing consolidation. The Wigan Branch Railway was opened in 1832, and put Wigan in connection with the Liverpool and Manchester Railway. The Preston and Wigan, sanctioned by Parliament in 1831, made no progress, beyond this legal stage. "The wrong men were on the board, money and determination were lacking."<sup>2</sup> Help from outside was necessary if the line were to be constructed. This was obtained by fusion with the Wigan Branch Company, which was in touch with the powerful Liverpool and Manchester Company; it was to the interest of this trunk line to encourage the growth of its tributaries, and establish the connection, beyond Wigan, with Preston. After the amalgamation the line from Wigan to Preston was constructed, and

<sup>1</sup> Section 163.

<sup>2</sup> "History of the Wigan Branch and the Preston and Wigan Railways." A paper read by Clement E. Stretton on the Jubilee of opening of Wigan Branch, September 3, 1832 (Goodall and Suddick, Leeds, 1901).

finally opened in October, 1838. By that time the London and Birmingham Railway was completed, and a through communication between Preston and London was established.<sup>1</sup>

Meanwhile in 1835 another fusion in the same district further unified this connection between Lancashire and the South. From Newton, the terminus of the new North Union Railway, a small railway, the Warrington and Newton,<sup>2</sup> covered the five miles intervening between the North Union and the Grand Junction. This small line had been opened as early as 1829; the Grand Junction Railway, incorporated in 1833<sup>3</sup> to bridge the seventy-eight miles between Warrington and Birmingham, was still under construction, and was not opened until July 4, 1837. It was obviously to the advantage of the big company to absorb the small one, which was a direct continuation of it northwards, and which took the Grand Junction to a connection with the North Union and with the Liverpool and Manchester at Newton. So the Grand Junction obtained power to unite the Warrington and Newton to itself,<sup>4</sup> and the smaller company disappeared altogether: "It is expedient that the Grand Junction Railway and the Warrington and Newton Railway should be made and compose one continuous line . . . under one common control and system of management," therefore the Warrington and Newton Acts are repealed, and the Grand Junction Acts extended to

<sup>1</sup> *Ibid.*; and for an interesting account of the inception and early days of London and Birmingham Railway (and of railways generally) see Osborne's "London and Birmingham Railway Guide."

<sup>2</sup> Warrington and Newton Railway incorporated, 10 George IV., c. 37 (1829), "for making a railway or tramroad from the Liverpool and Manchester Railway at or near Wargrave Lane (Newton) to Warrington."

<sup>3</sup> 3 and 4 William IV., c. 34; for history see Osborne's "Guide to the Grand Junction Railway, 1838," pp. 39-57.

<sup>4</sup> Amalgamation of Grand Junction with Warrington and Newton, 5 and 6 William IV., c. 8.

cover the smaller company "as fully as if it had been expressly mentioned . . . as part and parcel of the said Grand Junction."<sup>1</sup> All the "works, lands . . . shares, profits . . . rights" of the Warrington and Newton are vested in the Grand Junction,<sup>2</sup> and the smaller company is thus not only for practical working and control, but also for financial purposes, completely merged in the larger one; 518 Grand Junction shares of £100 each were created and issued to the Warrington and Newton proprietors in exchange for their former shares, which were of the same amount.<sup>3</sup>

A slightly different operation, the first example of a form of railway transfer that became very common, occurred in 1836, when the Great North of England Railway obtained power in its Act of Incorporation<sup>4</sup> to purchase from the Stockton and Darlington Company one of its branches,<sup>5</sup> known as the Croft Branch.

After these early transfers, there is no instance of amalgamation until 1840, when the Grand Junction again enlarged its compass by absorbing<sup>6</sup> the Chester and Crewe Railway. In this case consolidation was a financial necessity, as in the case of the North Union. When the project was broached in 1839 the Grand Junction had been working for two years, but the Chester and Crewe was not yet open; the Grand Junction shares were at a premium of 100 per cent.; those of the other company were at a discount, and the calls made on them were not being paid. Some of the Chester and Crewe shareholders objected to the terms

<sup>1</sup> Section 2. The Grand Junction Tolls, etc., are applied to the Warrington and Newton, with one exception in Section 3.

<sup>2</sup> Section 5.

<sup>3</sup> H. Scrivenor, "Railways of United Kingdom," 1849, p. 27.

<sup>4</sup> Local Acts, 6 and 7 William IV., c. 105.

<sup>5</sup> Section 6. "The whole or part of the Croft Branch" which the Stockton proprietors "are or may be desirous to sell." On execution of the conveyance the branch (to which from its other terminus at Gateshead the Great North Railway extends), becomes part of the Great North of England.

<sup>6</sup> 3 and 4 Vict., c. 49, May 19, 1840.

offered—the exchange of their £50 shares for £25 shares in the Grand Junction—and asked that the future, not the existing, value of their line should be the basis of negotiation. But actual resistance was out of the question, and the amalgamation was easily carried.<sup>1</sup>

Then once more there was a lull, from 1840 until 1844, when suddenly consolidation became a great force, and by the amalgamation of three midland companies, the first fusion that formed one of our great trunk railways was effected.

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<sup>1</sup> *Railway Times*, October 26, 1839, p. 843; February 8, 1840, pp. 90-92; May 9, 1840, p. 378.

## CHAPTER II

### THE PROGRESS OF CONSOLIDATION IN THE FORTIES : THE AMALGAMATION OF THE MIDLAND AND OF THE LONDON AND NORTH WESTERN.

So far we have been dealing with the railway movement in a stage that was largely tentative and experimental. In the forties this is less apparent. It is true that inexperience of railway problems hampered Parliament in its attempts at legislation, but the novelty of the locomotive and of railway travelling was soon forgotten, and the new system of transport was regarded familiarly as an established fact. In 1845 there was little trace of the uncertainty and alarm with which a railway journey had been regarded a few years earlier. The locomotive engine had indeed come into its kingdom with astonishing suddenness. In 1846 the G.W.R. were running a regular service, which covered the 53 miles between Paddington and Didcot in one hour and seven minutes, and averaged 48 miles an hour between Swindon and Bath. This was on a broad-gauge line ; but on the narrow-gauge North Midland Railway a speed of 50 miles an hour was obtained, and a great engineer reported the record accomplishment of 68 miles an hour on the Grand Junction Railway.<sup>1</sup>

The promotion of new railway companies had been severely checked in 1837, and was hardly attempted in the five years following, but it was taken up again with

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<sup>1</sup> Report of the Gauge Commissioners, 1846 (34), p. 24, and evidence of Robert Stephenson, Question 168.

swiftly increasing enthusiasm from 1843 onwards, and before the movement was checked again by the crisis of 1847, the main lines of communication throughout the country had been sanctioned.

The following table presents a general view of the rise and decline of the movement in the forties :

RAILWAYS OF THE UNITED KINGDOM.<sup>1</sup>

	Miles of Railway Authorized.	Capital Authorized.
Prior to December 31,		£
1843 ... ...	2,276	83,848,000
During 1844 ... ...	805	20,454,000
" 1845 ... ...	2,700	59,479,000
" 1846 ... ...	4,538	132,617,000
" 1847 ... ...	1,354	39,460,000
" 1848 ... ...	371	15,274,000
" 1849 ... ...	16	3,911,000
" 1850 ... ...	8	4,116,000
Mileage open December, 1843 ... ...	...	1,952
" " " 1850 ... ...	...	6,621

It must not be imagined that the “capital authorized” each year is entirely on account of the “miles authorized.” After 1847 little fresh mileage was undertaken; but many companies found it impossible to avoid asking for more money in order to complete works which had been sanctioned in previous years. The following table shows the total number of Railway Acts passed each year, and the extent to which Acts for new lines and for amalgamations are comprised in the total; the term “new lines” may at times only refer to a minute branch or extension, but generally speaking the proportion of “new lines” to “total Acts” reflects faithfully the progress and collapse of the railway boom:

<sup>1</sup> These figures are taken from the Report of the Commissioners of Railways for 1848 (p. 45), and the Report of the Railway Department for 1854 (p. vii).

RAILWAYS OF THE UNITED KINGDOM.<sup>1</sup>

Year.	Total Number of Acts Passed.	Including—		
		Acts for New Lines.	Acts for Amalgamations.	Acts for Purchases and Leases.
1840	24	2	1	1
1841	19	2	0	0
1842	24	6	0	1
1843	24	10	0	1
1844	49	37	3	7
1845	121	94	3	15
1846	272	219	20	19
1847	194	112	9	20
1848	85	37	5	7
1849	35	11	2	4
1850	37	5	1	5

These tables will suggest to the reader that the year 1846 was a remarkable one in railway history. It is, in fact, the outstanding year in the whole course of that history, not merely because of the record number of Bills sanctioned, but also because of the decisive amalgamations that were accomplished. It was a notable year, too, for the number of railway purchases and leases effected,<sup>2</sup> for the important consolidations of canals with railways that were carried out,<sup>3</sup> and for the numerous inquiries into railway questions made by Parliamentary Committees, and their outcome in General Railway Acts.<sup>4</sup> Further, it was the central year of a most critical period in the history of English railways,

<sup>1</sup> This table has been compiled from the general list of Railway Acts, Appendix E.K.; Report of Royal Commission, 1867; from the Return of Existing Amalgamations in 1848 (Accounts and Papers, 1847-48, LXIII., No. 510), and from the continuations of that return given in the Annual Board of Trade Returns after 1848. These sources of information differ slightly from each other in some details, and it is impossible to guarantee the absolute correctness of the figures.

<sup>2</sup> See below, p. 29.

<sup>4</sup> *Ibid.*, pp. 62-64.

<sup>3</sup> *Ibid.*, p. 91.

a period in which the lines of communication were being hastily mapped out, and their ownership and the subsequent balance of railway power decided by important amalgamations; and in which the problem of controlling the railways was clamouring for the attention of Parliament.

There is a great deal in this period that we must examine in detail, for consolidation and the monopoly which it was feared would result from consolidation, were very prominent in the railway world and in the deliberations of Select Committees and other bodies which considered railway questions. In the present chapter, a general account of the progress of amalgamation in England from 1840 to 1853 will be given, and the two most important fusions—those which formed the Midland and the North Western Companies—will be described in detail.

Practically we may say that railway amalgamation began in 1844; the three consolidations which we have mentioned in 1834, 1835, and 1840 are interesting as the earliest examples of the process, but they only involved the extinction of three companies, which together possessed but thirty-three miles of railways.

In 1844 we find that amalgamation is becoming a subject of general interest in the railway world, busy though that world may be with the promotion of new lines. The two movements, in fact, advanced side by side to their culminating point in 1846, and then declined together. The great consolidation of 1844 was that which formed the Midland. Two smaller fusions were effected by the Great Western and the North Union.<sup>1</sup> In 1845 there were again three amalgamations sanctioned, one of them transferring the

<sup>1</sup> The Great Western (incorporated 1835, 5 and 6 William IV., c. 107), absorbed the Cheltenham and Great Western Union Company (forty-eight miles), and also the Oxford Company (ten miles), 7 and 8 Vict., c. 3. The North Union absorbed the Bolton and Preston (fourteen miles), 7 and 8 Vict., c. 2.

famous Liverpool and Manchester Company to the Grand Junction.<sup>1</sup> Meanwhile great schemes had been projected for the following session, and in 1846 eighteen Acts were passed (for England and Wales) sanctioning unions which added 798 miles to the systems effecting the amalgamations, and to a large extent shaping the subsequent course of development.<sup>2</sup>

By one of these Acts of 1846 the London and North Western Railway Company came into existence,<sup>3</sup> a fusion of the London and Birmingham, the Grand Junction, and the Manchester and Birmingham. By five other Acts the Manchester and Leeds (re-named the Lancashire and Yorkshire in the following year) added five small companies to its system.<sup>4</sup> Another combination of four companies brought the Manchester, Sheffield, and Lincolnshire Company into existence.<sup>5</sup> The Midland Railway was also prominent, absorbing the Leicester and Swannington, the Birmingham and Gloucester, and the Bristol and Gloucester.<sup>6</sup> Another Act consolidated the London and Brighton with the London and Croydon, so forming the London, Brighton, and South Coast Railway.<sup>7</sup>

<sup>1</sup> 8 and 9 Vict., c. 198. The Kenyon and Leigh (two miles), and the Bolton and Leigh (seven miles), were also added to the Grand Junction by the same Act.

<sup>2</sup> Throughout the figures given are for England and Wales, unless otherwise specified. There was one amalgamation in Scotland in 1846, effected by the Caledonian Company, and one in Ireland in the same year, forming the Irish South-Eastern Company (absorbed in 1863 by the Great Southern and Western Company). These were the first Scotch and Irish amalgamations. The facts are all taken from the Return of Existing Amalgamations in 1848 (*Accounts and Papers, 1847-48, LXIII., No. 510*) ; only those operations classed as amalgamations have been counted.

<sup>3</sup> 9 and 10 Vict., c. 204.

<sup>4</sup> Manchester and Leeds (incorporated 1836, 6 and 7 William IV., c. 111) changed its name to Lancashire and Yorkshire, 1847 (10 and 11 Vict., c. 163.)

<sup>5</sup> 9 and 10 Vict., c. 268.

<sup>6</sup> Leicester and Swannington by 9 and 10 Vict., c. 311 ; the other two companies by 9 and 10 Vict., c. 326. See p. 50 below.

<sup>7</sup> 9 and 10 Vict., c. 283.

Of the nine amalgamations of 1847<sup>1</sup> only two need be noticed. The East Anglian Railway (eighty-four miles) was formed by the amalgamation of three small companies,<sup>2</sup> and an interesting fusion was effected in the North of England by which the York, Newcastle, and Berwick Company was formed.<sup>3</sup> The amalgamating companies were the York and Newcastle and the Newcastle and Berwick. The York and Newcastle Company had been incorporated in 1842 as the Newcastle and Darlington Junction. The name was changed in 1846, when the Company obtained power<sup>4</sup> to purchase the Great North of England Railway, running from York to Darlington. The Company had made four other purchases, adding seventy-three miles to its system, and altogether this amalgamation of 1847 included 360 miles of railway which had at one time been owned by eight separate companies.<sup>5</sup> This consolidation was an important step in the series of fusions which produced the North Eastern Railway in 1854.

After 1847 came barren years. In 1848 there was one English railway amalgamation.<sup>6</sup> In 1849, 1850,

<sup>1</sup> The source from which these figures are taken (*Return of Existing Amalgamations, 1848*) only gives eight fusions for this year, 1847; a ninth should be added: the incorporation in the L. and N.W.R. of the Huddersfield and Manchester, and the Leeds, Dewsbury and Manchester, by 10 and 11 Vict., c. 159.

<sup>2</sup> Ely and Huntington, twenty-two miles; Lynn and Ely, thirty-six miles; Lynn and Dereham, twenty-six miles (10 and 11 Vict., c. 275).

<sup>3</sup> 10 and 11 Vict., c. 133.

<sup>4</sup> 9 and 10 Vict., c. 242.

<sup>5</sup> Some details of the complicated history of these companies will be found in H. Scrivenor, "Railways of the United Kingdom Statistically Considered," 1849, pp. 210-232. (The list of amalgamations in Appendix A, Report on Amalgamation, 1872, p. 753, incorrectly puts the various York and Newcastle purchases together under the year 1846.)

<sup>6</sup> The *Return of Existing Amalgamations in 1848*, from which we have hitherto quoted, does not go beyond 1847. For 1848 and subsequent years the details are given at the end of the yearly return of railway capital, loans, etc. The form is the same, amalgamations, purchases, and leases being separated. For 1848, see Accounts and Papers, 1849 (535), LI.; for 1849, *ibid.*, 1851 (187), LI.; for 1850,

and 1851 there were none;<sup>1</sup> in 1852 only two, those of the Reading, Guildford, and Reigate with the South Eastern,<sup>2</sup> and of the East and West Yorks with the York and North Midland.<sup>3</sup> In 1853, again, there was nothing beyond the fusion of two small Hartlepool companies, together possessing eight miles of railway.

However, the purchases and leases effected during this period must also be considered. The first instance of purchase recorded by the Commissioners of Railways<sup>4</sup> is that of the Leeds and Selby Company by the York and North Midland Company in 1840. Up to the end of the year 1853, only thirty-nine railway purchases in England and Wales are recorded;<sup>5</sup> twenty-six of these were in the years 1845, 1846, 1847. The practice of leasing railways began in 1844; thirty-six leases are recorded to the end of 1853;<sup>6</sup> and here again, the greatest activity was in 1845, 1846, and 1847, eighteen of the leases commencing in those years. They were as a rule confined to small lines; the longest piece of line which changed hands through purchase or lease appears to have been the Norfolk Railway of ninety-two miles, leased in 1848 by the Eastern Counties.

On examining the transactions in detail one finds that joint purchases and leases were not uncommon. In 1846 the Great Western and the North Western

*ibid.* (623); for 1851, *ibid.*, 1852-53, (172), XCVII.; for 1852, *ibid.*, 1854 (98), LXII.; for 1853, *ibid.*, (494).

<sup>1</sup> In 1848 there were four amalgamations in Scotland; in 1849 there were two; in 1850 one; in 1851 none anywhere; in 1852 and 1853 the only amalgamations in the United Kingdom were the three English ones mentioned.

<sup>2</sup> 15 and 16 Vict., c. 103.

<sup>3</sup> 15 and 16 Vict., c. 57.

<sup>4</sup> In the Return of Existing Railway Amalgamations, 1848, from which most of the amalgamation statistics above are taken. The first Scotch and Irish railway purchases were in 1844 and 1847 respectively.

<sup>5</sup> Ten in Scotland, three in Ireland.

<sup>6</sup> And seven in Scotland. No Irish lease is mentioned in this period.

purchased equal parts of the little West London Railway. In the same year the amalgamating career of the North Union was ended by its lease in perpetuity to the Lancashire and Yorkshire as regards one-third of its system, and to the London and North Western as to the rest.<sup>1</sup> In 1852 the London and North Western and the Midland took a joint lease for nineteen years of the Manchester, Buxton, and Matlock and Midland Junction.<sup>2</sup> Another instance is that of the Preston and Wyre, vested jointly in 1849 in the Lancashire and Yorkshire and the London and North Western, whose interests in the line were fixed in the proportion of two-thirds and one-third respectively. The shareholders of the Preston and Wyre were guaranteed more than 7 per cent. in perpetuity.<sup>3</sup>

It is noticeable that these operations were not always carried out by Act of Parliament; agreements between the companies were sometimes sufficient. It was by agreement that the Midland in 1852 obtained a fourteen years' lease of the North Western Railway Company,<sup>4</sup> a small system of forty-six miles from Skipton, through Settle, to Morecambe—often called the “little North Western” to distinguish it from the L. and

<sup>1</sup> 9 and 10 Vict., c. 231, sec. 22. £66,063 per annum was guaranteed to the North Union.

<sup>2</sup> 15 Vict., c. 98. Particulars of these arrangements are given in Mihill Slaughter's “Railway Intelligence.”

<sup>3</sup> 12 and 13 Vict., c. 74, sec. 13. The arrangement was exceptional, for the Preston and Wyre had previously been vested in the Manchester and Leeds (L. and Y.) by deed poll of May 15, 1847, under provisions in the Manchester and Leeds Act of 1846 (9 and 10 Vict., c. 306, sec. 34). The deed poll was made with the concurrence of the L. and N.W.R., on the understanding that they should later participate.

<sup>4</sup> Accounts and Papers, 1854 (98), LXII. By Act of Parliament (20 and 21 Vict., c. 134) the Midland obtained a perpetual lease in 1857. The Board of Trade Returns, from which most of the above information is gathered, give the Acts of Parliament in the case of many of the leases and purchases. Presumably, where no Act is given, the arrangement was by agreement. In 1851, of four English leases, only one is stated to have been effected by Act of Parliament.

N.W.—but one that had caused much trouble to its neighbours.<sup>1</sup>

Perhaps the most curious lease was that by which, in 1850, an individual, Mr. John Robinson McClean, leased the South Staffordshire Railway until 1871.<sup>2</sup> Some extensions were also leased to him in 1857, but the London and North Western Railway took over Mr. McClean's lease in 1861, leasing the South Staffordshire Company for ninety-nine years from that date. The terms of Mr. McClean's lease prevailed until 1871, and under them a dividend of  $4\frac{1}{2}$  per cent. was paid; after 1871 the rate was to be 4 per cent.<sup>3</sup> In 1867, however, this arrangement was ended by the L. and N.W. creating new stock to be exchanged for the stock of the South Staffordshire Company which was thus merged in the L. and N.W.<sup>4</sup>

The precedent created by Mr. McClean was followed in 1854 in the lease of the Shrewsbury and Hereford Railway (fifty and three-quarter miles) to Mr. Brassey, in this case also by Act of Parliament.<sup>5</sup> Mr. Brassey was to work the line for eight years, paying 4 per cent. on the share capital of £450,000 for the first four years and after that 4 per cent. and half the surplus profits. In 1858, however, when the first four years of his lease had expired, a fresh arrangement was made by which he paid  $4\frac{1}{2}$  per cent. and one-fourth of the surplus if the gross annual receipts exceeded £85,000.<sup>6</sup> When Mr. Brassey's lease expired in 1862 the L. and N.W. tried to obtain a lease, but their Bill was opposed

<sup>1</sup> See Stretton, chap. xvii.; and Grinling, pp. 152, 153.

<sup>2</sup> 13 and 14 Vict., c. 58. Some details are given by G. P. Neele, "Railway Reminiscences," 1904, pp. 18-20. The South Staffordshire Railway extended from Walsall, through Lichfield, to Burton-on-Trent (by arrangement with the Midland Railway).

<sup>3</sup> Mihill Slaughter, "Railway Intelligence," 1863, p. 92.

<sup>4</sup> *Ibid.*, 1869, p. 76.

<sup>5</sup> 17 and 18 Vict., c. 174.

<sup>6</sup> Mihill Slaughter, "Railway Intelligence." In the half years ending June, 1861, and June, 1862, Mr. Brassey paid 30s. per cent. and 15s. per cent. on account of surplus profits.

and eventually an Act was passed conferring a joint lease on the L. and N.W.R. and the G.W.R.<sup>1</sup> The railway was to be managed by a Joint Committee of eight members and an independent chairman to be appointed if necessary by the Board of Trade. The lease continued until 1870 when the Shrewsbury and Hereford was vested in the L. and N.W. and Great Western Companies ; it is still jointly owned and managed by those companies.

Reviewing the purchases and leases effected before 1854, one may observe that these methods of consolidation had a greater vogue among the Southern Companies than among those of the Midlands and North of England. Amalgamation we have noticed began in Lancashire and flourished throughout this period among the companies connected with Manchester, Birmingham, Derby, York, and Newcastle. Up to 1853 the only exceptions<sup>2</sup> to this were two consolidations in East Anglia in 1847 ; also one forming the Brighton in 1846, one in the same year uniting the Blackwall with the Blackwall extension, and one in 1852 uniting the Reading Company with the South Eastern : five in all out of a total of thirty-nine amalgamation Acts. On the other hand, in leases and purchases the Southern Companies were more active. The London and South Western effected all its consolidating operations during this period by lease or sale, securing the Southampton and Dorchester (sixty-two miles) on a 999 years' lease in 1847, three small companies in 1844 and 1846, two by purchase and one by lease, and the Windsor, Staines and South Western Company by a one year's lease in 1848, followed by a Purchasing Act in 1850.<sup>3</sup>

<sup>1</sup> 25 and 26 Vict., c. 198.

<sup>2</sup> The Great Western Railway should, perhaps, also be excepted ; but it was more a midland than a southern railway. In any case, its amalgamations (see list, Appendix A, Report on Amalgamation, 1872) were not remarkable considering the greatness of the company and its early establishment.

<sup>3</sup> 10 and 11 Vict., c. 58.

Similarly the London, Brighton and South Coast added both the Brighton and Chichester (forty-five miles) and the Brighton, Lewes and Hastings (fifty-seven miles) by purchases in 1845. And up to the year 1853 the South Eastern Railway had extended its operations over no less than seven separate systems by means of lease or purchase. In 1842 the Company purchased half of the London and Brighton line between Croydon and Redhill; in 1844 they leased the primitive little Canterbury and Whitstable Company for fourteen years, purchasing it, however, before the lease expired; in 1845 they leased the London and Greenwich for 999 years,<sup>1</sup> and purchased the Ashford and Hastings line and also a share of the Bricklayers Arms Branch and Station; in 1846 they purchased the Gravesend and Rochester line. In 1850 they leased the Reading, Guildford and Reigate (thirty-nine miles) for 999 years;<sup>2</sup> an arrangement that was ended in 1852 by an Act amalgamating the two companies, lessor and lessee. It is worth observing that this, the one South Eastern amalgamation before the sixties, was only indirectly accomplished after a lease had been obtained. And we must point out here that the three companies of which we have been speaking, the South Western, the Brighton and the South Eastern, together with the exceptional G.W.R., were the chief companies in the forties that stood outside the Railway Clearing House.

<sup>1</sup> The Canterbury and Whitstable was sanctioned in 1825 (6 George IV., c. 120), and when opened in 1830 was the first railway in the South of England to be worked by stationary and locomotive engines. When Whishaw visited it in 1831 the line was being worked partly by fixed engines, partly by one locomotive, and partly by horses, but in 1839 the locomotive had been dispensed with. The South Eastern purchased the company in 1853 (16 and 17 Vict., c. 156). The London and Greenwich Company was also an early one, sanctioned in 1833 (3 and 4 William IV., c. 46), and was remarkable for its construction. It ran throughout its length of three and three-quarter miles on arches—878 of them. See Francis Whishaw, "Railways of Great Britain and Ireland," 1840, pp. 50 and 284.

<sup>2</sup> The lease began in March, 1850; the Act was 9 and 10 Vict., c. 171 (1846).

There is not sufficient ground for making this an explanation of their backwardness in amalgamation, but the connection between amalgamation and the Clearing House is shown below in Chapter VII.

It must not, however, be suggested that the method of purchase or lease was confined to the Southern railways. Some instances of such transactions in the Midlands have been noticed, and in the North, the lease and purchase of the Great North of England Railway by the Newcastle and Darlington Company has a special notoriety by reason of the financial arrangements involved. These were made in 1845, though the Act sanctioning them was not passed until 1846.<sup>1</sup> The Great North of England shares had been at a discount of 37 in July, 1843; as a result of the negotiations between the two companies they stood at a premium of 144 in July, 1845. Nor was this excessive, for the terms were that the Newcastle and Darlington should lease the Great North of England until 1850, guaranteeing a dividend of 10 per cent., and that the purchase should then be made on the basis of £250 for each £100 Great North of England share. It was stated that an original shareholder would in this way receive 52 per cent. interest up to 1850, and then a bonus of 1,200 per cent.<sup>2</sup>

Other examples<sup>3</sup> of lavish guarantees in connection with railway leases and of extravagant outlay on railway

<sup>1</sup> 9 and 10 Vict., c. 242.

<sup>2</sup> See H. Scrivenor, "Railways of the United Kingdom Statistically Considered," 1849, where, on p. 214, the details of the transaction are set out. The 52 per cent. interest is accounted for by the fact that only £5 was paid up on £40 shares. See also George Hudson's evidence before the Select Committee on Railway Acts Enactments, 1846, Questions 3,562-3,613. Hudson admitted that the money paid for the purchase was greater than the marketable value of the railway.

<sup>3</sup> See Hudson's justification of leases at 10 per cent. in Williams, pp. 115, 116; Grinling, p. 107, for the attitude of the G.N.R. shareholders to their chairman on the question of guarantees; also Mr. Charles Russell's speech at G.W.R. half-yearly meeting, February, 1848 (*Railway Times*, February 19, 1848, p. 184).

purchases can be found during the period of boom that preceded the crisis of 1847 ; speculation and excitement prevailed ; the most unduly optimistic reports of railway prosperity were current, and shareholders did not stop to consider the handicaps they were placing on their property when at enthusiastic meetings they agreed to leasing or purchasing schemes. The boards of directors who proposed and arranged such schemes may, in many cases, appear to have erred —perhaps worse, to have been guilty of misconduct. But some excuse can be found for them. Consolidation was often essential. The little uncoordinated companies that had sprung up in every direction had to be united before a system of railways was possible. The movement was going on rapidly between 1844 and 1847, and no individual company could afford to delay when there was a risk of rivals securing lines that were of vital importance to the territorial unity of the particular company.<sup>1</sup> Beyond this, one must allow that railway boards suffered from lack of experience in railway administration,<sup>2</sup> that an unbounded confidence in railway prosperity stimulated directors and shareholders alike, and that the promoters of many small companies

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<sup>1</sup> The lease of the Leeds and Bradford Railway by the Midland Railway in 1846 is a good example. The terms were a 10 per cent. dividend guarantee ; but the Midland were justified in offering this, because "the Manchester and Leeds Company, backed up by the London and York, desired to obtain it" (Stretton, p. 119), and so did the East Lancashire Company, both being ready to pay the 10 per cent. rent. On this occasion, however, the Midland shareholders were not so enthusiastic as to overlook the irregularity involved in Hudson's conduct. Hudson was chairman of the Midland and of the Leeds and Bradford, but, so far from absenting himself, he took the chair at the special meeting summoned to sanction the Midland's leasing of the Leeds and Bradford (see Stretton, *loc. cit.*, and Williams, pp. 114-117).

<sup>2</sup> Hudson should perhaps be excepted, though he had no great experience. He bore witness to the incompetence of other railway men and their ignorance of railway problems in his evidence before the Select Committee on Railway Acts Enactments, 1846 (see especially Question 3,402).

made their plans with the deliberate intention of forcing themselves on well-to-do neighbours whom they would threaten by reason of some strategic advantage ; while other small concerns actually possessed such excellent traffic prospects as to justify very generous guarantees from the leasing company.

The case of the Great North of England, however, has been singled out because it was one of George Hudson's achievements, and was brought prominently before an exasperated and disillusioned railway public, when, after the crisis of 1847, Hudson's financial dealings were examined and exposed.<sup>1</sup>

It may be well to say something of that remarkable man before describing the amalgamation forming the Midland Railway which he accomplished in 1844.

As is so often the case with prominent or notorious characters, the popular picture of Hudson is too highly coloured. He is described as a "humble apprentice," who rose magically to wealth and fame through his connection with railways, who became the "railway king," the "Napoleon of railways," who speculated dishonestly on a gigantic scale, gulling and robbing an innocent public. At the end of the story, the "big swollen gambler," as Carlyle called him, is supposed to have collapsed and disappeared for ever, when his career of fraud was exposed.<sup>2</sup>

The truth is less dramatic, though Hudson's career was undoubtedly a remarkable one. He was already a wealthy man in 1827, when he received a legacy of £30,000.<sup>3</sup> In 1833 he originated the York Banking

<sup>1</sup> Included in the half-million of money which Hudson was accused of having misappropriated was the sum of £11,292 on Great North of England Purchase Account. See D. Morier Evans, "Facts, Failures, and Frauds," 1859, p. 64.

<sup>2</sup> Grinling (p. 91) tells a tale, which might well be added to heighten the *dénouement*, to the effect that Hudson passed out of public life in one of the first trains run by the G.N.R.—the rival company which Hudson had made such efforts to crush !

<sup>3</sup> "Hudson, George (1800-1871)": Dictionary of National Biography. It is stated there that he invested the £30,000 in North

Company. In 1837 he became Lord Mayor of York. His railway career was then beginning ; he had been active in promoting the York and North Midland Railway scheme, and was chosen chairman when the company was formed in that year. He was the moving spirit in the consolidation of 1844 which formed the Midland Railway Company. From then he held a position of enormous power until 1849, when his confusion of capital and revenue in the finances of the Eastern Counties Company was shown up. He resigned all his railway posts at once ; his conduct in the case of most of his companies, except the Midland,<sup>1</sup> was found irregular by various committees of inquiry.

But he was not absolutely ostracized. He had entered Parliament in 1845 as member for Sunderland, and he retained that seat until 1859. True, he spent

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Midland Railway shares. The North Midland Company was not incorporated until 1836. Some account of Hudson may be found in D. Morier Evans, "Facts, Failures, and Frauds," 1859 (chap. ii., "The Rise and Fall of Mr. George Hudson, M.P."); in F. S. Williams, "Our Iron Roads," chap. ii.; in John Pendleton, "Our Railways," vol. i., chap. x.; and in the histories of the Midland Railway by Williams and Stretton, though in these he is treated rather as the maker of the Midland system than from the point of view of his other, and often less praiseworthy, actions. It is interesting to compare Mr. Stretton's book with Mr. Grinling's ("History of the G.N.R."). Without necessarily being partisan, each writer is devoted to his own company ; and while Mr. Stretton (p. 78) takes the view that the Great Northern project, which Hudson opposed, was promoted in an improper manner, and was forced through Parliament by powerful interests, Mr. Grinling, in the early chapters of his book, writes at length of the struggles of the Great Northern promoters against a powerful and perhaps corrupt opposition, and of their success, which was due to the merits of the Great Northern project, and was gained rather in the teeth of interested opponents than by the aid of interested parties in Parliament.

<sup>1</sup> Stretton (p. 266) suggests that Hudson's colleagues on the Midland Board prevented him from taking any liberties with the Midland Company's accounts. The Board contained some strong men, who would certainly have checked Hudson had he attempted any misappropriation ; but it may also be suggested that Hudson had some sense of honour in the case of his central achievement—the Midland—and, further, that he was not wilfully fraudulent, and did not need to falsify the Midland accounts.

much of his time abroad, and took no further part in railway affairs beyond repaying what he could of the sums he was found to have misappropriated, and attempting to regain his fortune by speculating in railway shares.<sup>1</sup> But towards the end of his life, in 1868, he was sufficiently respected or pitied to be the recipient of a subscription of £4,800, raised for his benefit by some former friends.

Whatever his faults, and whatever sufferings his conduct may have brought on the investor, he must be classed with the greatest English railway men, on account of the work he did in advocating and popularizing the principle of consolidation, and in organizing the management of his companies on business lines. During his few years of power in the forties he made some vital changes in the railway map of England, largely determining the direction of subsequent consolidation, and giving a powerful impulse to the movement which evolved large systems out of disconnected or conflicting companies.<sup>2</sup>

He was essentially the man who was needed at the moment. Given his particular talents, there was nothing miraculous about his success. There was still a great field for the engineers, but the time had come when a master of men, rather than of materials, could find great scope for his abilities. The engineers who made railways, and the men (generally retired naval or military officers) who managed the railways, had no pretensions to the financial and business skill of Hudson.

Hudson mastered men by the exercise of various gifts. He appealed to their material interests because he combined great financial skill with the strategical

<sup>1</sup> D. Morier Evans, "Facts, Failures, and Frauds," 1859, p. 67.

<sup>2</sup> See the appreciation of Hudson's work in consolidating railway companies expressed in 1872 by Mr. Richard Potter, a former chairman of the G.W.R., and president of the Grand Trunk of Canada (*Herapath's Railway Journal*, June 15, 1872 : "Political Economy of Railways").

power of planning large railway schemes and of explaining their advantages in a telling manner. He could at times ingratiate himself by deference to the opinion of others. More often he was in a position to bully opponents, and crush them with a rough and overbearing arrogance;<sup>1</sup> but he knew how to appeal to a meeting and secure enthusiastic audiences with his plausible bravado. Beyond this, he possessed a real gift for administration and organization, and as chairman of many railway companies he busied himself with the management and introduced great improvements in system and staff arrangements.

He was ruined, and ruined thousands of railway shareholders, because he failed to realize the limitations to his power. Overweening self-confidence led him to do on his own authority things which the boldest and strongest boards of directors would not have attempted. Success and the inordinate deference paid to him turned his head, and led him to attempt the impossible—with the finances of the Eastern Counties Railway.

That must be the historian's chief impeachment of Hudson. He was found, by various committees of inquiry, to have misappropriated half a million sterling of railway funds. Probably many of his contemporaries erred in the same way, though not on so large a scale. The moral standard was a low one in those days of speculation, of bogus company promotion, of extortion on the part of landowners, and of faked opposition in Parliamentary Committees on Railway Bills.<sup>2</sup>

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<sup>1</sup> Morier Evans ("Facts, Failures, and Frauds," p. 50) says that on one occasion Hudson prevented an inquiry into accounts by informing the committee that they could not meet until he, as chairman, summoned them.

<sup>2</sup> See below, p. 169; also Williams, p. 96, for Lord Brougham's criticism of Parliamentary Committee proceedings. Morrison's "Tracts on Railways" (1848), abound with unfavourable comments on railway promotion and finance. Grinling shows Mr. Denison, the chairman of the G.N.R., to have been an honourable, if a

But Hudson was no common malversator. With his abilities and opportunities he could have enriched himself by honest means. It was not his desire for wealth, but his vanity to pose as the railway magician, that led him to pay false dividends and mislead the public as to railway prospects ; the losses entailed by this were too great to bear any comparison with the half-million which he misappropriated on his own account.

Probably it should be allowed that his head was turned by his successes, and a division should be made between his earlier work and the later transactions which chiefly led to his downfall. In the second period, elated by success and followed by a public that thirsted for premiums and attributed to him a superhuman power of supplying them, he failed as many an able man has failed when the object of gross adulation. Hudson must have foreseen in 1845 or 1846 that a slump would soon arrive. He told a Parliamentary Committee of 1846 that the prospects for 1849 were very uncertain.<sup>1</sup> As chairman of the Midland, the Newcastle and Darlington, the York and North Midland, the Newcastle and Berwick, the Eastern Counties, and the Leeds and Bradford,<sup>2</sup> he could and should have used his vast power to prepare the railway world for the end of the boom. Perhaps he realized that he was attempting too much, but he was not a great enough man to admit it. The Great Northern Railway had

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somewhat violent, man ; yet Mr. Denison admitted to a House of Commons Committee that a man might have to do things as a railway chairman which he would shrink from as a private man (p. 153).

<sup>1</sup> Select Committee on Railway Acts Enactments ; evidence, Question 3,260 : "Is not the stock of the Midland Company at a great premium?" "Yes."—Question 3,261 : "Have you any reason to suppose that the premium will be less in 1849?" "I would rather not speculate upon 1849 ; it is impossible for any man to speculate upon 1849."

<sup>2</sup> Also the Sunderland Dock Company. See Select Committee on Railway Acts Enactments, 1846 ; evidence, Question 3,254, for Hudson's statement of his railway companies.

struggled into existence, in spite of his vigorous opposition. It cut his railway kingdom in two, and, leaving the Eastern Counties Company isolated from the Midland system, speedily brought Hudson to ruin. The Midland, with which Hudson had achieved great and immediate success, possessed sound prospects; in his capable hands such a company soon brought him fame. The prosperity of the Eastern Counties, on the other hand, was remote, but Hudson was too vain to acknowledge that he could not at once raise it to the level of the better companies.

Some quotations from evidence that he gave in 1846 will perhaps present in the most graphic manner possible the arrogant assumption and bragging humbug of the man. A Parliamentary Committee, of which he was a member, put him through a severe examination. Mr. Morrison in particular, the Chairman of the Committee, was very searching in his questions as to Hudson's finance, though Hudson went through the ordeal comfortably enough, evading awkward questions<sup>1</sup> on details by some general answer in the style of an offended incorruptible; for example: "To the best of our knowledge and ability, we charge what belongs to capital to capital and what belongs to revenue to revenue."<sup>2</sup> In the following typical passage, however, he opened out to the Committee, and did not trouble to retain the plural "we":<sup>3</sup> "When I go to purchase a railway, I do not estimate what they are making. I know what a railway will produce. . . . I do not go

<sup>1</sup> Select Committee on Railway Acts Enactments, 1846; evidence, Questions 3,398-3,400. Morrison asked Hudson how much a proprietor of a £50 share in the York and North Midland would have obtained in premiums. "Many men cannot hold; they are obliged to sell," was Hudson's reply; but Morrison was not to be put off in this way, and elicited the information that such a proprietor would have received £250 in premiums.

<sup>2</sup> Question 3,292.

<sup>3</sup> Cf. also: "It put me in control of traffic" (Question 3,405), and other passages in this evidence.

upon what the dividends have been. At the time of my purchase of the Brandling Junction I could have shown them that they had been actual losers, and so in the Leeds and Selby case ; but I knew that it was their fault that it was not productive, and that I could make it productive ; therefore it never weighs with me as to what a company are making. I know that the grossest mismanagement exists in the management of these undertakings. The question with me is what the railway itself will produce under proper management, and what advantage there will be to the company about to purchase, and I always endeavour to divide that sum of money between the two parties.”<sup>1</sup>

We may now attempt to describe the amalgamation by which Hudson formed the Midland Railway in 1844, and that of the L. and N.W.R. in 1846—probably the two most important amalgamations in the whole history of English railways.

In 1843, when the Midland amalgamation was planned, there were several small railway companies running south out of London,<sup>2</sup> and the Great Western Railway, the largest company in the Kingdom, ran westward from Paddington to Bristol ; but there was only one company, the London and Birmingham, that ran northwards to connect London with the great industrial districts of the Midlands. Three years later a great struggle was raging over the projected London

<sup>1</sup> Select Committee on Railway Acts Enactments, 1846, Question 3,402. All Hudson’s evidence before the Committee is interesting. It was here (Question 3,603) that he made his well-known boast : “In any railway of which I have become the purchaser, I had no interest to the amount of sixpence, directly or indirectly, in any way whatever.” This could not have been true of the Midland purchase of the Leeds and Bradford, which was being arranged at the time. Mr. Hume smartly replied to Hudson’s statement : “Your interest depended upon the shares raised by the company to which you belonged, to make those payments?” To this Hudson only replied : “Entirely.”

<sup>2</sup> E.g., four companies at London Bridge : the South Eastern, the Croydon, the Greenwich, and the Brighton.

and York Railway, the Great Northern as it actually became, and over the Great Western Company's attempt to get a route into the Midlands; but the race for territory and for access to the great traffic centres had hardly begun in 1843, when Hudson was planning the Midland consolidation. He anticipated the other companies, and put the Midland Company in a strong position before the great struggle between the rival gauges commenced, and before the Parliamentary contest over the London and York project, which Hudson himself so actively opposed, had opened.<sup>1</sup> The Midland consolidation, sanctioned by Parliament in 1844, combined three companies which had a common terminus in Derby. They were (1) the Midland Counties, running from Derby through Leicester to Rugby; (2) its rival the Birmingham and Derby Railway, which joined the London and Birmingham at Hampton, twelve and a half miles east of Birmingham; and (3) the North Midland, running from Derby to Leeds.<sup>2</sup> They were small companies, not remarkable for their prosperity, but important as links between the London and Birmingham and the North of England. From Rugby or from Hampton traffic reached Derby by the Midland Counties line or by the Birmingham and Derby line. Then from Derby the North Midland Company supplied a continuation for both these competitive companies northwards to the York and North Midland, and on from York there was a connection to Darlington by the Great North of England Railway. Beyond that a route through Durham and Newcastle had been sanctioned, and as on the west coast the railway had

<sup>1</sup> Grinling describes the contest. The Parliamentary proceedings cost the Great Northern £432,000 (p. 62).

<sup>2</sup> See "Bradshaw's Railway Time Tables and Assistant to Railway Travelling" (with maps), 1839, No. 3. The early history of the three companies is given in F. S. Williams' "Midland Railway": chap. i., Midland Counties; chap. ii., North Midland; chap. iii., Birmingham and Derby.

advanced no farther than Lancaster, it appeared likely at this time that communication with Scotland would be effected by an East Coast route, of which the North Midland, and either the Midland Counties or the Birmingham and Derby, would be important constituents.

There was therefore good ground for uniting the North Midland with one of these two rival systems, so effecting an "end on" amalgamation to which it would seem that no objection could be raised, save by the rejected rival. Robert Stephenson, the distinguished son of the great George Stephenson, as engineer, among many other railways, to the North Midland and the Birmingham and Derby Companies, urged the amalgamation of these two, and he probably had a just claim to have been the "chief instigator" of the triple amalgamation that was finally effected.<sup>1</sup>

But in 1843 the principle of amalgamation was so novel that the end-on amalgamation appears to have been little favoured, while the proposed union of two parallel competing systems was welcomed—a position almost the reverse of later views on amalgamation. This was partly due to suspicion ; the railway world could understand that there was a case for ending the competition between the Midland Counties and the Birmingham and Derby ; they could not see George Hudson's motive for bringing the North Midland Company into the deal.<sup>2</sup>

For it was Hudson, a director of the North Mid-

<sup>1</sup> Cardwell Committee, 1853. Stephenson's evidence, Question 1,106. There is a sketch of Robert Stephenson's career in the Dictionary of National Biography : "Stephenson, Robert (1803-1859)," and an interesting, though somewhat discursive, "Life" has been written in two volumes (1864) by J. C. Jeaffreson and W. Pole.

<sup>2</sup> The *Railway Times*, December 30, 1843, p. 1387, expresses surprise that the North Midland Company has been admitted into the amalgamation scheme, and plainly suggests that the "cunning managers of the North Midland" have interfered in their own interest, and are getting "the lion's share."

land, not Robert Stephenson, who brought about an amalgamation of the three companies, uniting two competitors with a company with which both formed a continuous route. Stephenson was far too busily engaged on great engineering works in many lands, and in any case his professional point of view and his scrupulous character would have made co-operation with Hudson distasteful to him.<sup>1</sup> Hudson insinuated himself into the half-hearted negotiations between the rival companies, acting the part of the disinterested neighbour who only interferes because he deplores a quarrel ; but he soon took charge of the whole business, and then carried the transaction through in a very masterly fashion.

Probably it was his ambition to form and control an important company, rather than his desire to secure immediate profit for the North Midland, that led him to interfere. His critics suggested the latter motive, because they could not see any other reason for the inclusion of the North Midland in the fusion. For that company, being outside the competitive struggle that raged between the Midland Counties and the Birmingham and Derby, was not affected by their strife. Indeed, as was pointed out by Mr. T. E. Dicey, chairman of the Midland Counties, the cutting of rates by the rival companies brought them increased traffic, and the traffic they transferred to the North Midland was consequently of greater volume than under non-competitive conditions.<sup>2</sup> The North Midland charged full rates and fares, and thus rather profited by the competition between the Midland

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<sup>1</sup> Jeaffreson and Pole, *op. cit.*, vol. i., pp. 251, 261.

<sup>2</sup> Captain Laws, giving evidence before Gladstone's Committee (1844, XI., Question 6,356), said that when rates were reduced on an amalgamated line, other lines north or south might raise their rates. He gave as an example the Midland Counties and the Birmingham and Derby. When they were competing, the through passenger gained little by the rate-cutting of the two companies, as the connecting companies raised their rates.

Counties and the Birmingham and Derby. Some figures were given by Mr. Dicey as to this competition.<sup>1</sup> The fare from Derby to London had in the first instance been reduced from 34s. to 30s. first class; from 23s. to 19s. second class. Then in April, 1843, the first-class fare had been reduced to 28s. The Birmingham and Derby Company had to pay 27s. of this to the London and Birmingham Railway for their share of the journey; 1s. remained to the company for carrying a passenger thirty-eight and a half miles. The Midland Counties had lowered their fares in keeping with these reductions, retaining, however, their ordinary scale of charge for two trains, the mail and the express. Mr. Dicey reported the losses from February 18 to June 24 as £4 per cent. on the receipts in that period for the Midland Counties, and £13 10s. per cent. for the Birmingham and Derby. He also reported a successful appeal to the Courts for a mandamus against the Birmingham and Derby,<sup>2</sup> requiring them to charge all passengers alike between Derby and Hampton. Their scale had been 1s., as mentioned above, for that part of the journey, to a passenger going through to London, and 8s. for the local passenger.

Obviously this was a case for the ending of competi-

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<sup>1</sup> Midland Counties' Half-yearly Meeting, August 10, 1843 (*Railway Times*, August 12, pp. 874-880). The fares between London and Derby had been £1 15s. first class, and £1 4s. second class, in 1839 (*Railway Times*, August 24, 1839, advertisement of Birmingham and Derby Company).

<sup>2</sup> Mr. Stretton ("History of the Midland Railway," p. 68), also says that the application was successful, but, in point of fact, the motion for an injunction against the Birmingham and Derby Company was refused. The Lord Chancellor held that "even if the Court had jurisdiction in such a case, it would not interfere unless it were clear that the public interest required it, and that in this case, it being admitted that the higher charge was not more than the Act permitted, it did not appear that the public were prejudiced by the arrangement" (*Attorney-General v. Birmingham and Derby Junction Railway Company*, "Railway and Canal Cases," vol. ii., 1840-42, p. 124, and Summary, p. 923).

tion by combination, but the rival companies could not readily agree. The promoters of the Birmingham and Derby Company (familiarly known as "Peel's Railway" from the interest that statesman took in it) had claimed when their project was before Parliament, that it was not competitive, but competition was keen enough between this railway and the Midland Counties when the two began to be worked in 1839. The Birmingham and Derby Company was the first to be opened throughout, and had some claim to the traffic that was fought for by the two companies; on the other hand, the Midland Counties scheme had been sanctioned first, and the directors of this company claimed that the traffic was rightly theirs, because they supplied the direct route between Derby and London, via Rugby, while the Birmingham and Derby Company carried the Derby traffic by a more westerly route, joining the London and Birmingham at Hampton, seventeen miles further away from London.

The competition between the two companies had been terminated for a time by an agreement of December, 1840.<sup>1</sup> This, however, was broken by the Birmingham and Derby, and the struggle was resumed—with the disastrous results shown above—in spite of negotiations for fusion from January, 1843, onwards. These negotiations were unsatisfactory, for the Midland Counties would not agree to fusion on definite terms as the Birmingham Company suggested, but preferred to arrange it on the results of a year's amicable working.<sup>2</sup> After that the Birmingham and Derby would only agree to an application to Parliament for powers to unite; all terms to be arranged after the Act had been passed.<sup>3</sup> The Midland Counties rightly objected to such a vague and hazardous course.

<sup>1</sup> Speech of Mr. Dicey (chairman) at Midland Counties' half-yearly meeting, March 15, 1843 (*Railway Times*, March 18, 1843, pp. 322-329).

<sup>2</sup> *Ibid.*

<sup>3</sup> This proposal was made in July, 1843 (see Mr. Dicey's speech at Midland Counties' half-yearly meeting, August 10, 1843).

It was at this point that the directors of the North Midland Company stepped in. They met the Midland Counties Board, and presented a scheme for the union of all three companies, to which the Birmingham and Derby had already agreed. The terms involved the equal rating of North Midland and Midland Counties stock in the consolidation that was to follow, while Birmingham and Derby shares were to receive 25s. less dividend per £100 share than the others. This scheme was to be accepted without modification by the Midland Counties. The directors of the latter declined the offer, Mr. Dicey, as we have said, professing his suspicions of the North Midland intervention ; he believed that union with the North Midland would come, but contended that a real settlement of difficulties between the Midland Counties and the Birmingham and Derby was necessary first. Mr. Dicey, however, did not carry his proprietors with him. Mr. Hudson spoke hotly and determinedly in defence of his company's intervention ; he pointed out that the North Midland shareholders had passed a strong resolution<sup>1</sup> in favour of the triple union, requesting him and his fellow-directors to persevere in the negotiations. The North Midland attitude of the disinterested mediator was well exploited by this able strategist. The meeting, like another held earlier in the year,<sup>2</sup> lasted close upon six hours, and came near to rioting at times. In the end a committee was appointed to arrange the amalgamation. When this committee had done its work and a special meeting considered the scheme in September, 1843, Mr. Dicey was still opposed to the terms (those mentioned above, modified only as to the difference in dividend on Birmingham

<sup>1</sup> Resolution proposed by Mr. Parker, M.P. for Sheffield, and unanimously carried at North Midland 14th half-yearly meeting, August 9, 1843 (*Railway Times*, August 12, 1843, pp. 869-874).

<sup>2</sup> Midland Counties' special meeting, February 14, 1843 (*Railway Times*, February 18, 1843, pp. 209, 216).

and Derby shares—*i.e.*, 27s. 6d. instead of 25s. less than the consolidated shares of the other companies). But Hudson carried the day in a high-handed and almost violent manner, and Mr. Dicey was grossly insulted by some of the shareholders who resented his perfectly honest opposition to the scheme. It was made evident that the Birmingham and Derby and the North Midland had the whip hand, for leasing arrangements between them were made known—arrangements prepared in case amalgamation failed. There was little fear of this, however, for the Midland Counties shareholders were enthusiastic and the meeting broke up with “three cheers for railway amalgamation.” After that things went smoothly enough with the actual Parliamentary proceedings in 1844; the “Midland Counties Consolidation Bill” had a peaceful progress through both Houses,<sup>1</sup> and on July 16 the first meeting of the new Midland Railway Company took place, with George Hudson in the chair.<sup>2</sup>

By this amalgamation the Midland became one of the leading companies of the day; its mileage was only 179, but the G.W.R. and the London and Birmingham were as yet no larger. The capital of the consolidated company also seems a small figure nowadays, some £6,000,000—attributable as to £3,329,932 to the North Midland Company, £1,708,170 to the Midland Counties, and £1,206,644 to the Birmingham and Derby Company.<sup>3</sup> Immediate economies were possible in the reduction of staff; Hudson professed his regret at parting with valuable officers, and his desire to help them, at the first meeting of the new company.<sup>4</sup>

<sup>1</sup> Hansard, vol. 76, June-September, 1844. Index to Session shows that the Bill passed all stages unopposed.

<sup>2</sup> Stretton, “History of the Midland Railway,” chap. vi., gives a short account of the amalgamation and a list of the directors and chief officers.

<sup>3</sup> Tuck’s “Railway Shareholders’ Manual,” 1846, p. 75.

<sup>4</sup> Among the officers who lost their places was J. J. Allport, the famous general manager of the Midland from 1860 to 1880. In 1844

The company paid a dividend of 6 per cent. in its first financial year, 1845. The stocks of the three companies had never been at a premium before the amalgamation ; in July, 1843, those of the Birmingham and Derby Company had been at a discount of 62 per cent. After the amalgamation Midland shares were soon at a premium of nearly 100. Hudson had put himself in a position of authority and had raised the Midland Company to the first rank in the railway world. That company, a pioneer in many respects throughout its history, was firmly established in its central position, and in the struggle for aggrandizement, which was beginning about 1845, was able promptly to strike out from the centre and establish the first of its radii, by absorbing the Birmingham and Gloucester Railway and the Bristol and Gloucester Railway in 1846 ; these companies were guaranteed 6 per cent. in perpetuity ; liberal terms were necessary, as the G.W.R. had already made them a good offer.<sup>1</sup> The extensions to Settle and Carlisle, and to Hitchin and St. Pancras came later, but the route to Bristol was an important gain by which the Midland anticipated the Great Western Company in its desire to enter the Midlands, and secured access to the south-west of England over systems which otherwise would have fallen into the hands of the broad-gauge company, and so have accentuated the distinction and added to the barriers between the Great Western Railway territory and the narrow-gauge system of the rest of the country. One can, of course, only speculate on this, and on what might have been the trend of consolidation had the three companies that formed the Midland remained uncombined in 1846 ; probably the

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he was "carrying manager" of the B. and D. Company. Hudson found a place for him on the Newcastle and Darlington (Stretton, p. 281).

<sup>1</sup> M. Slaughter, *Railway Intelligence*, No. IX., 1856, p. 87. See also Stretton, p. 112, and Williams, p. 86, for the importance of the Midland's action.

London and Birmingham would have attempted to secure one of them, throwing out an arm to Derby and beyond, but it is clear beyond doubt that the establishment of the Midland Company had a profound influence on the subsequent course of railway development.

The amalgamation by which the London and North Western Company was formed in 1846 was an equally decisive one, though it lacks the individual interest which Hudson's personality gave to the Midland amalgamation.

The two chief companies concerned were the London and Birmingham and the Grand Junction, which together formed a continuous route from London to Lancashire. But the Grand Junction had, in 1845, absorbed the famous Liverpool and Manchester Company,<sup>1</sup> which ran at right angles across the north-western end of this continuous route, and in 1846 another company, the Manchester and Birmingham, was included in the great amalgamation which formed the London and North Western system. The inclusion of this third company made the transaction to some extent an amalgamation of competing as well as of continuous lines, for the Manchester and Birmingham Company ran from Crewe to Manchester, and offered an alternative route to that of the Grand Junction from Crewe to the Liverpool and Manchester system. The possibilities of competition were, however, small as compared with those in the case of the Midland Counties and the Birmingham and Derby Companies, and traffic agreements had been

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<sup>1</sup> 8 and 9 Vict., c. 198. By this Act the Bolton and Leigh Company and the Kenyon and Leigh Junction Company were also joined to the Grand Junction. An anonymous pamphlet, written at Manchester, April, 1846, and entitled "The Amalgamation of Railways as affecting Internal Commerce" (Simpkin, Marshall), contains a petition against the fusion of the Grand Junction and the Liverpool and Manchester, and also a protest against the L. and N.W.R. amalgamation. The pamphlet contains some general arguments against amalgamations, and urges the advantages of competition.

made between the Grand Junction and the Manchester and Birmingham. Indeed, in 1844, Samuel Laing quoted the fares of these companies as an instance of an increase due to the cessation of competition.<sup>1</sup> Nevertheless, there was some hostility between the Grand Junction and the Manchester and Birmingham in 1845.<sup>2</sup> The latter company was in treaty for amalgamation with the London and Birmingham, and the Chairman of the London and Birmingham, Mr. G. C. Glyn, told his shareholders in August, that though these negotiations were going on satisfactorily, arrangements with the Grand Junction were in a hopeless state.<sup>3</sup> In point of fact, the situation was very critical. The London and Birmingham might be anxious to absorb the Manchester and Birmingham, but the union with the Grand Junction was of vital importance to them, because the Grand Junction might ally with the Great Western Railway and so bring into the great industrial districts of Lancashire a company which, like the London and Birmingham, had access to London. The Great Western Company were supporting two broad-gauge projects—the Oxford and Rugby line, and the Oxford, Worcester and Wolverhampton. Against them the London and Birmingham Company promoted a Bill for a narrow-gauge Worcester, Dudley and Wolverhampton Company.<sup>4</sup> During the very keen Parliamentary struggle which raged round these Bills in 1845, and round the gauge question generally, the Grand Junction Company, far from supporting the London and Birmingham Com-

<sup>1</sup> Report of Gladstone's Committee, 1844, Appendix II., p. 19.

<sup>2</sup> Hyde Clark's "Railway Register," vol. i., 1844-45, pp. 273-276, contains an interesting criticism of the London and Birmingham Company's policy, and shows how unsettled were their relations with the Grand Junction early in 1845.

<sup>3</sup> *Railway Times*, August 9, 1845, pp. 1215-1218.

<sup>4</sup> G. A. Sekon, "History of Great Western Railway," second edition, 1895, p. 118. The evidence taken on these Bills was published (Select Committee on Oxford, Worcester, and Wolverhampton Railway, etc., Bills, No. 360, 1845).

pany, leant decidedly towards the Great Western Company. The Secretary of the Grand Junction gave evidence in favour of the broad gauge.<sup>1</sup> Captain Huish, the General Manager of the Grand Junction, a very able strategist, and afterwards the General Manager of the London and North Western Railway, drew up an address from the Grand Junction Company to Parliament, in which the company petitioned against the London and Birmingham schemes.<sup>2</sup> The petition stated that the London and Birmingham were trying to reverse Parliament's decision in favour of the Great Western extension, and urged Parliament to sanction the new lines which the Great Western had promoted, so that the absolute monopoly of the London and Birmingham Company might be prevented. The petition further stated that the London and Birmingham "already by purchase, lease, amalgamation, and arrangements with railways and canals, seek to obtain, in addition to their line from London and Birmingham, entire control from Birmingham to Manchester and Birmingham to Holyhead." It concluded by stating that the directors of the Grand Junction feared nothing from "fair and open competition," and solicited Parliament's aid in support of the two broad-gauge projects.

This petition was signed by Captain Huish, and dated June 11, 1845. It is impossible to say to what extent it was sincere, and to what extent it was a coercive measure, intended to bring the London and Birmingham to terms with the Grand Junction. Captain Huish himself, in evidence in 1853,<sup>3</sup> said the effect of the petition undoubtedly was to bring about "an immediate arrangement" between the two com-

<sup>1</sup> Sekon, *op. cit.*, p. 119.

<sup>2</sup> Select Committee on Railway and Canal Bills, 1852-53; evidence, Question 1,299.

<sup>3</sup> *Ibid.*, Question 1,424.

panies, to the advantage of the Grand Junction. And it is a fact that although, as we have said above, Mr. Glyn had despaired of an agreement with the Grand Junction in August, 1845, in November the Grand Junction shareholders were called together to sanction amalgamation with the London and Birmingham, and so advanced were the negotiations that it was arranged that the two companies should divide their profits at once.<sup>1</sup> In connection with this, it may be noticed that the promoters of amalgamation in the forties appeared to have little doubt that Parliament would sanction their schemes. In the negotiations for the Midland amalgamation, the thought that the Bill might be rejected by Parliament was not entertained. At this special meeting of the Grand Junction in November, 1845, a shareholder remarked that the companies were "going in with a division of profits, as if the amalgamation were carried," and asked whether an Act was not necessary. He was told that the Midland had done the same thing, and that the directors thought the doubt of carrying the amalgamation was hardly worth consideration. The shareholders were also informed that the London and Birmingham were negotiating with the Manchester and Birmingham, and that all three companies would now be included in one Act.<sup>2</sup>

From that point onward the arrangements for amalgamation went on smoothly, and in July, 1846, royal assent was given to the Bill by which the three companies were "consolidated and incorporated into

<sup>1</sup> *Railway Times*, November 8, 1845, p. 2175. Similarly, the London and Birmingham Company's half-yearly report of February 13, 1846 (*Ibid.*, February 14, 1846, p. 216), gives the separate accounts, and also an amalgamated account for the London and Birmingham Company and the Manchester and Birmingham Company.

<sup>2</sup> *Railway Times*, November 8, 1845, p. 2175. Tuck's "Railway Shareholders' Manual" for 1846, prepared in 1845, and dated November 21 of that year—the month in which the companies came to terms—assumes that amalgamation will be granted.

one company"—the London and North Western Railway.<sup>1</sup>

In passing, a few points from the Act may be mentioned. The capital of the new company consisted of £17,000,000, of which the London and Birmingham contributed about £8,500,000, the Grand Junction £5,500,000, and the Manchester and Birmingham £2,800,000.<sup>2</sup> The full complement of directors from the three united companies was to be retained until February, 1851.<sup>3</sup>

Captain Huish stated in evidence, in 1846, that the separate Boards would be retained as local working committees. In answer to a criticism that this arrangement prevented some of the economies incident to amalgamation, he pointed out that the new company would have a revenue of about £2,000,000 a year, and that the directors' fees of £50 a year and a guinea for each attendance—something less than £100 a year—were a trifle.<sup>4</sup>

Another provision of the Act compelled the company to provide engine-power, on receiving twenty-four hours' notice, for loads of not less than forty tons of coal belonging to one and the same firm, to forward the load to its destination, and to return the waggons within a reasonable time.<sup>5</sup> A more general protective clause of a type common in the Amalgamation Acts of

<sup>1</sup> 9 and 10 Vict., c. 204 (July 16, 1846). The name "Great London and Liverpool Railway" had been current during the negotiations in 1845. Tuck's "Railway Shareholders' Manual" for 1846 (dated November 21, 1845) gives this title to both the London and Birmingham and the Grand Junction. The prices of the stocks of these companies and of the Manchester and Birmingham are given in this Manual, pp. 29, 39, and 40. They were little affected by the negotiations for fusion.

<sup>2</sup> Section XIX.

<sup>3</sup> Section L.

<sup>4</sup> Select Committee on Railway Acts Enactments, 1846; evidence July 30, Questions 2,213-2,215.

<sup>5</sup> Section LXXXIII. A similar but less specific provision was made in the Act, also of 1846, amalgamating five companies, as the Manchester, Sheffield, and Lincolnshire Railway (9 and 10 Vict., c. 268).

1846, but of little practical value, provided that, if the Government thought it necessary at any time to require the company to correct any evils specified, and the company failed to do so within six months, a Bill should be introduced for the purpose.<sup>1</sup>

By this amalgamation the greatest of the English railways—the premier company, as it has often been called—was formed, with a system of 379 miles. It is impossible in this work to describe the subsequent growth of the company; an interesting volume could be written on the fifty odd amalgamations, leases, and purchases made by it between 1846 and 1870 alone, by which 1,000 miles were added to the system.<sup>2</sup> No more than a general outline of railway amalgamations can be attempted here, and our excuse for going into details in the case of the Midland and the London and North Western fusions is that they were both typical of many smaller unions, and so epoch-making as to affect the main trend of development in a decisive manner. At the first meeting of the London and North Western Company, Mr. G. C. Glyn, the chairman, said “the only wonder was that the amalgamation had not taken place before.”<sup>3</sup> Mr. Lawrence, chairman of the Grand Junction, at the last meeting of that company, spoke of being relieved from the anxieties “inseparable from a state of constant hostility to their natural ally, the London and Birmingham Company.”<sup>4</sup> These remarks were well enough when the amalgamation had been arranged, but there had been every possibility of a very different combination a year earlier; the Grand Junction, combined with the Liverpool and Manchester, might have amalgamated with the Great

<sup>1</sup> Section LXXIV. See also Manchester and Leeds Act of 1846, authorizing the amalgamation of the Preston and Wyre (9 and 10 Vict., c. 306, sec. 36); and the Brighton Consolidation Act of the same year (c. 283, sec. 41).

<sup>2</sup> See Appendix A, “Report on Amalgamation,” 1872.

<sup>3</sup> *Railway Times*, August 8, 1846, p. 1093.

<sup>4</sup> *Ibid.*, February 13, 1846, p. 220.

Western Railway. In that case the broad gauge would have made an important and perplexing advance, while the expansion of the London and Birmingham north-westwards would have been checked, and the company might have been driven to combine with the Midland in order to get through towards the North. It actually happened that in 1852, when the amalgamation movement revived again after the collapse of 1847, the London and North Western and the Midland proposed to amalgamate.

But before we can discuss that proposal and the important inquiry of 1853 to which it led, there is a great deal of ground to be covered.

We have attempted to describe in the present chapter the main facts concerning railway amalgamation in the decisive period of the forties. We must, however, also describe the external relations of the railways to the State, the canal companies, and the financial world, and that will be done in the following chapters.

## NOTE TO CHAPTER II

### THE GAUGE QUESTION

A statement of the chief facts and authorities on this question may be useful. The Report of the Commissioners "appointed to inquire into the merits of the broad and narrow gauge" (1846, xvi., No. 34), and the evidence taken by them, supply the fullest information on the early history of the question. Brunel, in his evidence, narrates how he persuaded the G.W.R. directors to omit from their Bill of 1835 the clause fixing the gauge, and explains his reasons for adopting the broad gauge of 7 feet, instead of the narrow 4 feet 8½ inches, which had been adopted by the great majority of the railways, on the pattern of the Stockton and Darlington railway. Stephenson had taken 4 feet 8½ inches as the gauge for that railway, because it was the usual gauge of the existing tramways.

Brunel's originality separated the G.W.R. from the London and Birmingham Company; in 1833 the former company had intended to use Euston Station as its London terminus, a plan that would have probably led to the union of the two companies. In that case the course of English railway history would have been very different.

In 1845 the broad and narrow gauge first met at Gloucester; the vexations caused by the break of gauge, and the Parliamentary contest of the same year between the London and Birmingham and the

G.W.R. over their rival Bills for lines between Oxford and Wolverhampton, produced the general excitement and controversy which have been called the "Battle of the Gauges." The Board of Trade reported against the projects of the G.W.R., but Parliament disregarded the report and sanctioned them. A Royal Commission, however, was appointed in the same year, to report on the whole question. Their Report (mentioned above : 1846, xvi., No. 34) fully admitted the advantages possessed in some respects by the broad gauge, but recommended a uniform narrow gauge throughout the country. At the time of the Report there were 1,901 miles of narrow gauge open, and 274 miles of broad gauge.

An Act was then passed, in 1846, "for regulating the gauge of railways" (9 and 10 Vict., c. 57). Unfortunately, Parliament, in its desire to deal fairly with the G.W.R., drew up the Act loosely, and instead of limiting new broad-gauge lines to branches on the south side of the G.W.R. system (as the Gauge Commissioners and resolutions of the Commons had intended), made it possible for further broad gauge to be constructed north of the G.W.R. An excellent summary of this part of the question, with a map of the systems concerned, and a criticism of the Act of 1846, is contained in a Report, pursuant to order of the House of Lords, made by the Commissioners of Railways in 1848 (Communications between London and Birmingham, May 22, 1848, No. 90).

From this time onwards the confusion and difficulty of break of gauge and mixed gauge constantly increased, *laissez-faire* (evident in the Report of the Gauge Commissioners, 1846, p. 20), was strong, and interference became more difficult. Parliament could not condemn the G.W.R. gauge, would not contemplate assisting the company to alter its gauge, and failed to check the increase of the evil. The Report of Cardwell's Committee (quoted below, pp. 284-285) criticized Parliament's attitude in the most outspoken terms. The Report of the Royal Commission on Railways in 1867, stated (p. lxxvi) that since the Gauge Act of 1846 Parliament had sanctioned nearly 750 miles of broad gauge. Appendix CZ. of the Report gives in detail the lengths of the various broad and mixed gauge railways, and describes the twenty-six places at which a break of gauge occurs ; a good map is attached. The Report said that "the continued existence of the double gauge is a national evil." The cost of alteration to narrow gauge was estimated at £2,000,000. "As the evil has arisen, to some extent, from the proceedings of Parliament," the Commissioners suggested that a loan of public money might be granted to the G.W.R. for the purpose of converting its gauge. (The *Spectator* —May 9, 1846, p. 445—had written strongly on the question, suggesting compensation.) However, the work was done by the G.W.R. without public assistance. Conversion to narrow gauge was started in 1868, and completed in 1892.

G. A. Sekon, "History of the G.W.R.," gives the broad-gauge point of view. Jeaffreson and Pole, "Life of Robert Stephenson," vol. ii., chap. i., present the narrow-gauge case fairly. See also Dictionary of National Biography : "Brunel, Isambard Kingdom (1806-1859)" ; and *G.W.R. Magazine*, August, 1912.

## CHAPTER III

### RAILWAY PROBLEMS AND PARLIAMENT: THE BEGINNING OF STATE CONTROL

IN the last century three Parliamentary Committees were appointed to make a special investigation into the question of railway amalgamation — the Select Committee of 1846,<sup>1</sup> the Select Committee of 1852 and 1853<sup>2</sup> (known as Cardwell's Committee), and the Joint Select Committee of 1872.<sup>3</sup>

The general history of railway amalgamation might be gathered round these three documents. In 1846 amalgamation, still something of a novelty, was for the first time viewed with any serious misapprehension by the Legislature. The Committee of 1846 had a greater responsibility thrust upon them than the later ones; the amalgamations of the year were of vital importance in establishing the great systems of later days with all the problems they involved. The Committee found that, apart from Irish Bills, there were some 161 English and fifty-six Scottish Bills "involving the principle of amalgamation." But they could do little more than lay down some general principles for the guidance of Select Committees on Railway Bills, and urge the necessity of establishing a Government Department to supervise railways and canals.

The Committee of 1852-53 acted more vigorously. Parliament was alarmed by the proposals of the L. and

<sup>1</sup> Below, p. 129.

<sup>2</sup> Below, Chap. VIII.

<sup>3</sup> Below, Chap. X., Part II.

N.W. and the Midland, and of the L. and S.W. and the L.B. and S.C. to amalgamate. The Committee recommended that no amalgamation Bills before Parliament be read a second time. The House adopted this suggestion, and the two large amalgamation schemes mentioned were not heard of again.

The Committee discussed the whole question very thoroughly, and suggested improvements in Parliamentary procedure, and legislation enforcing harmonious working between companies; the modest outcome of their Report was the Railway and Canal Traffic Act of 1854, known as Cardwell's Act.

The evidence taken by the Committee, and the views expressed in its fourth and fifth reports are perhaps the most valuable information we possess on the history of amalgamation. The Committee of 1852-53 were familiar with the great period of construction and amalgamation, and were inquiring closely into the problems of that period.

By 1872 railway problems were better understood, and the peaceful progress of the sixties had removed many of the fears of earlier years and had convinced men that a private system of railways was not necessarily a monopolistic danger; the inquiry of 1872 was brought on, however, like that of 1852-53, by Parliament's suspicion of a particularly large amalgamation that was proposed—the amalgamation of the L. and N.W. with the L. and Y., and to a smaller degree of other proposals, notably that for the union of the Midland with the Glasgow and South Western, proposals which, though they appeared again in 1873, were practically defeated by the Committee of 1872.

This Committee summed up admirably the history of English railways, and carefully examined the economics of combination. Its constructive work mainly centred in the recommendation of a special railway tribunal, which, besides acting as a court in which traders might seek redress, should also "assist Parlia-

ment in railway legislation." The outcome of this was the judicial body known as the Railway Commission.

One might sum up the whole history in this manner : Parliament has at times been apprehensive of amalgamation, but has never definitely condemned it. Nor has Parliament laid down any permanent scheme, or discovered any criterion for amalgamation proposals. The three chief inquiries that we have mentioned all advocated some form of permanent railway tribunal, but in each case Parliament failed to carry out their suggestions satisfactorily. Amalgamation has gone on steadily, only receiving marked attention when an exceptionally large scheme has been proposed. In the present time this has been shown once more by the attempted union of the G.N., G.E., and G.C., when once more the question of amalgamation has been made the subject of inquiry—this time by a Departmental Committee.

But it is necessary to go beyond these three reports on amalgamation, for amalgamation is too closely connected with other railway questions to be isolated from them. In particular, the attitude of Parliament to competition must be examined, and attention must be given to the history of the canals. Moreover, it would be wrong to suggest that Parliament has neglected the railway question generally. It has gradually obtained a controlling power by successive interventions, and the effect of that control in minimizing the possible dangers that might have arisen as the great companies obtained territorial monopolies must be observed.

The attitude of Governments to railways may be described as positive or negative. The positive attitude is that of the chief continental States ; it consists in aid to railway construction, definite assumption of responsibility for finance, of rights of interference and of dictation as to management ; in its logical sequence it extends to State-ownership and working. The negative attitude is English ; no assistance is afforded to com-

panies ; they are given charters which lay stress rather on what they may not do than on what they may do ; interference takes the form of legislating against certain possible evils, not of planning general schemes for harmonious progress. To give a practical example : A particular amalgamation is sanctioned, and it is assumed that the amalgamating parties will see to it that they get advantages from the fusion ; the State is concerned only to prevent evils arising from it ; laws are passed to limit the companies' power of inflicting damage. No legislative attempt has been made in the general interests of all the companies to arrange for their further concentration on a fair give-and-take system which will be to the positive benefit both of railways and the public.

This policy of controlling evil rather than promoting good may be on its trial at the present day, when the accumulation of controlling laws, passed in many cases as temporary expedients and without reference to the long-period results, has gradually built up a somewhat penalizing code of interference. But it has maintained throughout our railway history since the forties, and we consider it necessary to deal at some length with the beginnings made in that decade. We shall therefore examine not only the inquiries particularly directed to amalgamation, but also the general relations of Parliament to the railways between 1840 and 1853.

It may be well to set out a list of the chief railway inquiries of this period, in order to give some idea of the attention paid to railway problems by committees :

1. Select Committee on Railway Communication, 1838. This dealt with the relations of the railways to the Post Office. In a short report the Committee recommended, among other things, that the Post Office should have the power to run its own engines and trains, without paying any tolls.<sup>1</sup>

<sup>1</sup> The Report was made March 23, 1838, and reprinted February 13, 1844 (No. 25) and attached to the volume (*Reports of Committees, 1844, XI.*), containing Gladstone's Inquiry.

\*2. Select Committee on Railway Communication, 1839 (two reports).

\*3. Select Committee on Railway Communication, 1840 (five reports).

\*4. Select Committee on Railways, 1844 (six reports). This is known as Gladstone's Committee.

5. Select Committee on Railway Bills, 1845. The two reports of this Committee dealt with the procedure of Committees for Railway Bills, and suggested the classification of Railway Bills by a Special Committee. Subsequent reports from the Classification Committee give a good picture of the volume of railway promotions.<sup>1</sup>

\*6. Select Committee on Railway Acts Enactments, 1846 (two reports), known as Morrison's Committee.

7. Select Committee on Railway Bills (three reports), 1846; again dealing with Parliamentary procedure and followed by twenty-five reports from the Committee on Railway Bills Classification.<sup>2</sup>

\*8. Select Committee on Railways and Canals Amalgamation, 1846; mentioned above on p. 59.

9. Select Committee on Railway Labourers, 1846. The Report gave a most interesting account of the condition of the men who were constructing the railways, disclosing many grave abuses.<sup>3</sup>

10. Select Committee of House of Lords, 1846, dealing with railway management, Private Bill procedure, speculation, and the gauge question.<sup>4</sup>

\* Committees marked thus (\*) are dealt with at some length below.

<sup>1</sup> Reports of Committees, 1845, X., Nos. 82, 135, and ten following Reports from Classification Committee; also Nos. 395, 442, and 427 of same volume; further instancing the variety of Railway Inquiries, it may be added that the volume also contains a Report on Irish Railway Bills (315), on Atmospheric Railways (252), a House of Lords Inquiry on Compensation for Land (420), and many smaller Inquiries on Petitions (222, 291, 480, 657); No. 480 gives details of official corruption.

<sup>2</sup> Reports of Committees, 1846, XIII.

<sup>3</sup> *Ibid.*

<sup>4</sup> *Ibid.*

11. Select Committee on Railway and Canal Bills, 1852-53 (five reports); Cardwell's Committee.

Besides these inquiries, there was the Royal Commission of 1846 on the gauge question, and amongst many inquiries of local importance there was a large volume from the Royal Commission on railway termini in the metropolis, also in 1846.<sup>1</sup>

Further, there were the various reports from the Board of Trade and the Railway Commissioners, far too numerous to mention.

As to legislation, we shall deal at some length with the Railway Regulation Acts of 1840 and 1842, with Gladstone's Act of 1844, and with the Act for constituting Railway Commissioners, 1846; but the three very important Clauses Consolidation Acts of 1845, are outside our range; nor shall we deal with the Passenger Duties Act of 1842, the Gauge Act and Lord Campbell's Compensation Act of 1846, or the Railway Clearing House Act and the Abandonment of Railways Act of 1850.<sup>2</sup>

These lists suggest that Parliament was kept busy with railway questions. But railway questions did not predominate. The forties were "hungry" for legislation, as well as for food; tariffs and Corn Laws, shipping, factories, mines, the condition of the Irish peasantry, and of the English rural handworkers, all demanded attention; the Bank of England was also the subject of important legislation, and following a period of reckless confidence there was a severe financial crisis in 1847 which added to the confusion, and made further calls upon the time of Parliamentary Committee-men.

But we must also remember that further separate Private Bill Committees were necessary to examine each

<sup>1</sup> 1846, XVII.

<sup>2</sup> These Acts are set out in Hodges, "On Railways," vol. ii.

Railway Bill promoted ; this was a heavy labour even when the Bills were grouped according to the districts they concerned.

Cardwell's Committee gave the following figures for Committees on Railway Bills<sup>1</sup> :

In 1846	64 Committees	sat for	867 days.
" 1847	52 "	635 "	
" 1848	14 "	176 "	
" 1849	11 "	73 "	
" 1850	15 "	113 "	
" 1851	14 "	131 "	
" 1852	15 "	137 "	

That is to say, in the year 1846 the Private Bill Committee work for railways alone would have been left incomplete if two Committees had worked at it every day of the year. 1846 was, of course, quite an abnormal year ; we have seen that it was the record year for railway legislation and for railway amalgamations ; it was also the great year for the amalgamation of canals with railways ; it was the year in which railway affairs made their heaviest demands on Parliamentary Committees and Commissioners. One would imagine that Parliament would have had to resolve itself into committees and neglect debates. In actual fact, one finds the pages of Hansard for 1846 crowded with the discussions of full and excited Houses on "Famine and Distress in Ireland ; Crime in Ireland ; Customs and Corn Importation Report ; Corn Law Petitions ; Protection of Life (Ireland) Bill ; Corn Importation Bill ; Ten Hours' Factory Bill ; Total and Immediate Repeal of Corn Laws," and additional excitement and distraction was caused at the end of June by the dramatic exit of Peel's Government.<sup>2</sup> True, the Parliamentary programme was varied for a few hours now and then by an excursion into railway matters, the gauge question for choice, and by the rapid passing

<sup>1</sup> Fifth Report, 1853, p. 15.

<sup>2</sup> Hansard, vol. 87, June 28, 1846, p. 1054.

of a general Railway Act.<sup>1</sup> But it was impossible to find time for careful and thorough discussion of railway problems, and, on the whole, one is amazed to think members could be found who were able to make time for the work of railway committees.

This is true, to a smaller extent, of more normal years. Parliament has generally had too much to do, and has not had the opportunity to study the Reports submitted to it by Committees ; the Reports frequently have little bearing on the legislative outcome ; they are interesting only as the considered opinion of a small section of members who have applied themselves to the particular problem.

One must blame the system, not the harassed legislators. And clearly, in the forties, they may be excused for failing to grapple with the railway questions, both on account of the pressure of other matters and the novelty of the question.

One member of the House of Commons, however, had, as early as 1836, foreseen with remarkable prescience the chief problems that must arise as the railway system extended. This was Mr. James Morrison, the member for Ipswich, a man who rose by his own “industry, sagacity, and integrity,” from very humble beginnings to enormous wealth.<sup>2</sup> His business was drapery, as was George Hudson’s, but the two men had nothing else in common, and were strongly opposed to each other in railway matters. Morrison was ever urging State control, while Hudson declaimed against interference with the railways ; and in the forties Morrison was a most scathing critic of Hudson’s financial methods.<sup>3</sup>

<sup>1</sup> Cf. Sir Charles Wood (Chancellor of Exchequer) on Railway Commissioners’ Bill : “ Well aware it can only go through by common consent of House,” vol. 88, August 19, p. 891.

<sup>2</sup> Dictionary of National Biography : “ Morrison, James (1790-1857).” From 1840 he sat for Inverness.

<sup>3</sup> See above, p. 41, and below, p. 171.

On May 17, 1836, Morrison moved that "in all Bills for railways or other public works of that description, it be made a condition, that the dividends be limited to a certain rate, or that power be reserved to Parliament of revising and fixing at the end of every twenty years the tolls chargeable."<sup>1</sup> Professor Hadley has summed up the points which Mr. Morrison made in the speech in which he introduced this motion: "Railroads must naturally be a monopoly; competing roads will combine; parallel roads are a waste of capital; fixed maximum rates are useless." Here are some passages from the speech itself. Mr. Morrison would have hesitated had he thought his motion would in any degree check individual enterprise, "but I am persuaded it will have no such effect. . . . Experience shows in this as well as in other countries that legislative restrictions, required by the public interests, do not prevent individuals from embarking their capital in public works. . . . We all know, Sir, how much this country is indebted to individuals and companies for great and useful works; but for its water communications with the metropolis and other places, Manchester would now have been merely a large village. . . . Hitherto on our public roads the most perfect competition has always existed. . . . If any improvement took place which tended to lower the cost or to accelerate the speed of our public conveyances, the public immediately had the full benefit of it; but in the numberless Acts now before the House no security is taken that the public should have the benefit of any improvement on railways. The superiority of this over all other modes of travelling in respect of rapidity

<sup>1</sup> Morrison's speech will be found in Hansard, 1836, vol. 33, pp. 977-993; the actual motion above is on p. 988. The speech is also given in Appendix I. of Morrison's "Tracts on Railways," (1848), a volume containing his essay, "The Influence of English Railway Legislation on Trade and Industry," and various speeches made by him.

is, perhaps, not greater than the capability it promises of reduction of cost." . . . "All Acts of Parliament" for railways or canals . . . "give them what is really equivalent to a monopoly." "Between any two or more places there is a certain line that is preferable to every other line for a railway or a canal." This line will most probably be the first to be occupied; "and a company authorized by the Legislature to take possession of it has thereby acquired an incommunicable privilege and a substantial monopoly." Competition by a subsequently promoted company is not likely. "But suppose that in spite of all the difficulties opposed to the formation of a new company, one is formed, and actually comes into competition with the present line, would not the obvious interests of both parties, unless prevented by some such precaution as that which I have proposed, inevitably bring about some understanding between them by which the high charges would be further confirmed, and all chance of competition removed to a greater distance?" Morrison cited the Metropolitan Water Companies as an example of this. He then turned to canals for further proof: "An original share in the Loughborough Canal, which cost £142 17s., is now selling at about £1,250, and yields a dividend of £90 or £100 a year! The fourth part of a Trent and Mersey Canal share, or £50 of the company's stock, is now fetching about £600, and yields a dividend of about £30 a year. And there are various other canals in nearly the same situation. But . . . the possession of the best, or it may be the only practicable line, and the vast capital required for the formation of new canals, have enabled the associations in question, unchecked by competition, to maintain rates of charge which have realized the enormous profits referred to for a long series of years." Competition has failed in such cases. But even if it had not, ought we, he asked, to trust to its protection? No; for "the Legislature is bound to prevent, as far as it can, the unnecessary waste of the

public capital." He then attacked the principle of fixed maxima, by asking whether it would not have been most unfortunate for Lancashire had its communications "been assigned to associations in 1770, with power to levy certain specified tolls and charges in all time to come?" There was no reason to think that the rapid advance since 1770 was now ended. There would be great improvement in the construction of engines, and in the whole management of railroads: "yet the House of Commons has been legislating with respect to them as if they had already attained to the highest degree of maturity and perfection." In conclusion, Mr. Morrison defended his particular scheme of reform: "the limitation of rates and of dividends to which I have already adverted, involve, in fact, the principle for which I am contending; and our turnpike Acts, which are generally granted for twenty-one years, are somewhat analogous. The cases of the Smalls', the Longships', the Dungeness' Lights, and other private lighthouses are instances in point." The parties building them "were authorized to charge certain rates for a specified term of years, on all ships coming within a certain distance of their lights; the lighthouses becoming, at the end of such terms, the property of the Crown or the public."

The House was not very favourable to Morrison's motion, though the second part of it, the revision of tolls, met with little criticism. The limitation of dividends was the chief point of attack. Mr. Gisborne said it would make for improvidence in the management of any company; he went further than Mr. Morrison had intended, however, in declaring that when the latter's principle was introduced it should apply to all railways, not merely to future railway Bills. Lord Stanley was in favour of the general idea of the motion, but not of its particular shape. He was against fixing a maximum or minimum profit for any railways. All the world knew that the clause to that effect in the

Manchester and Liverpool Act had been, and always would be, evaded. He agreed, however, that railways "from their very nature must always be a virtual monopoly," that the public must therefore be protected, and that this could only be done by a periodical revision of tolls. Thanks were due, he said, to Mr. Morrison for his motion, "particularly at a time when speculation on railroads was carried to a very great extent." On Lord Stanley's advice, Morrison withdrew his motion, and brought in a Bill applying the revision of tolls to all railways. But this he also withdrew after its first reading.<sup>1</sup> He declared himself anxious to push on with it, but found the House against him and the Session drawing to a close ; he notified his intention of bringing in another Bill in the following Session, but the matter received no further attention save from the Duke of Wellington in the House of Lords.<sup>2</sup> Morrison's own view was that "the railway interest increased in the Sessions that followed . . . till at length from the difficulties with which the subject was beset, the Government were probably reluctant to enter on it. . . . Meanwhile the French Government had adopted various regulations similar to those urged by me, such as the fixing of fares and charges, the principle of periodical revision, and the audit of accounts. . . . A contrast to our legislation little to our credit."<sup>3</sup>

Morrison, however, omits to mention the inquiries of 1839 and 1840, and the Act of 1840. These

<sup>1</sup> Public Bills, 1836 (395), IV., p. 723 : "Bill to provide for periodical revision of the tolls levied on railways, June 30, 1836. Prepared and brought in by Mr. Morrison and Mr. Gisborne." The Bill consisted of five clauses. Clause 1 provided for revision of tolls; clause 3 for yearly accounts to be returned by railway companies to the Board of Trade. For withdrawal of Bill see Hansard, vol. 34, p. 1310; vol. 35, p. 134. Sir Robert Peel presented a petition from the Birmingham and Derby Railway against the Bill on July 11 (Hansard, vol. 35, p. 91).

<sup>2</sup> Morrison dealt with this and the whole history of the Bill in his "Tracts on Railways," p. 16.

<sup>3</sup> *Ibid.*, p. 17.

deserve some notice. A Select Committee was ordered by the Commons on April 11, 1839, to inquire into the state of communication by railways. The matter had been brought up a fortnight before, when Lord Granville Somerset presented a petition against the monopolist policy of the London and Birmingham Railway.<sup>1</sup> The first Short Report of the Committee on April 26,<sup>2</sup> only recommended that "in all Railway Bills it be enacted that nothing . . . shall exempt the Railway . . . from the provisions of any general Act relating to Railways which may pass." The Second Report was longer.<sup>3</sup> The Committee wished to be revived in the following Session, to complete their investigations; meanwhile they made some recommendations, and thought they could not better execute their task than by drawing the attention of Parliament, the public, and the railway proprietors, "to a careful review of the difficulties that must arise from an extended inter-communication throughout the country, solely maintained by companies acting for their private interests, unchecked by competition and uncontrolled by authority."

The last words are strong and deserve notice. They have often been quoted—without their context—by writers who were proving that competition had never worked in restraint of the railway monopoly. They are, we think, much more fairly to be quoted as the first pronouncement by a Parliamentary Committee of that approaching breakdown of competition which was repeated by so many subsequent committees. It is

<sup>1</sup> Hansard, 1839, vol. 46, p. 1220. Mr. Poulett Thomson, President of the Board of Trade, replied that he intended to move for a committee. His motion, on April 11 (*Ibid.*, p. 1314), met with no opposition, and the committee, of which he was chairman, was appointed on the next day. Among the other fourteen members of it were Lord Stanley, Lord Seymour, Lord Sandon, Sir Robert Peel, Sir James Graham, Mr. Loch, and Mr. Shaw Lefevre (Select Committee on Railways, 1839, X, No. 222).

<sup>2</sup> No. 222.

<sup>3</sup> Twelve pages, No. 517; August 9, 1839.

clearly misleading to quote only a part of the sentence ; it is to some extent hypothetical ; the Committee are looking forward to the difficulties to come as the railway system is extended. But they are confident that when that extension comes, the evil of monopoly will prevail. And similarly their many Parliamentary successors found that though some competition remained as they wrote, it was surely and swiftly disappearing ; no Committee foresaw the new guises in which competition would appear ; each one was misled by the apparent diminution of the particular form of competition which prevailed at the moment.

If opinions of Parliamentary Committees had received attention, some drastic action might have followed the report of this Committee of 1840.

The Committee, though bewildered by the novelty and complexity of the subject, decided, without much indirectness, that the monopoly aspect of the railway problem should be restricted. They pointed to State action, though they were unable to say what form that action should take. State-purchase was too large a policy for them to anticipate ; perhaps if ever there was a time in the history of English railways when the purchase could have been carried through satisfactorily to all parties, it was in these early days. But Parliamentary Committees, as such, have never had great weight with Parliament and the public, and the Committee of 1839 was no exception. Reports of Committees are of weight in the hands of a great politician or statesman, if he chooses to make use of them. No one chose to urge State-purchase until 1844.

But the alternative to purchase—namely State-control—was not overlooked, and from the Report of 1839 we must commence our examination of that system which has so far rendered State-purchase non-essential, and, by gradually extending its grasp, has

rendered the railway monopoly comparatively innocuous. The Committee of 1839 discussed the question how far the interests of the public and the railway companies harmonized or varied, and perceived that a monopoly point of greatest profit was something above the lowest price obtainable under competition.<sup>1</sup> They showed that some railways had improved their incomes by raising fares and decreasing the number of passengers carried,<sup>2</sup> and observed that it was "the duty of directors, watching over the pecuniary interests of the company, to maintain the fares at the point which will produce the largest amount of income." They were quite decided that general competition by different carriers over a railway was dangerous and impracticable; they deemed it "indispensable to prohibit, so far as locomotive power is concerned, the rivalry of competing parties on the same line"; they questioned whether it would be possible for facilities to be given by companies for running over each other's lines.<sup>3</sup> On the whole they decided that a company must be given complete control of their own line, even though they thereby acquired an entire monopoly. "But if these extensive powers are to be granted to private companies, it becomes most important that they should be so controlled as to secure the public so far as possible from any abuse which might arise under this irresponsible authority."<sup>4</sup> All through the Report, the only competition seriously considered was that of railways with other forms of transport. It was not assumed that railways would combine, but the idea of their competing with each other was not contemplated, and the check of such competition was obviously overlooked by a Committee that used such strong terms to describe

<sup>1</sup> Second Report (No. 517), p. vii.

<sup>2</sup> *Ibid.* The Report refers to the Appendix (No. 20) where, in returns from the railway companies, much useful information may be found.

<sup>3</sup> P. ix. See also above, chap. i., p. 12.

<sup>4</sup> P. vii.

the situation expected when the railways had the field to themselves.

"It is clear that the general interests of the community must sometimes be at variance with the interests of railway proprietors, and that in such cases the combination of capitalists, held together by common advantage and guided by able directors, will probably prevail against the disunited efforts and casual resistance of the public." The Committee did not foresee that in almost every railway question that arose the railways (and the public) would be divided among themselves. They concluded that Parliament could not, and in the interests of safety should not, attempt to stimulate competition, but as this involved the "continuance of monopoly," so in proportion did they consider that a supervising authority was necessary.

"This control should be placed in the hands of the Executive Government, and it might be expedient to vest it in a Board to be annexed to the Board of Trade, of which the President and Vice-President should be members, together with one or two engineer officers of rank and experience. The Board should approve by-laws and inspect new lines; all complaints on the part of the public should be addressed to it, the Board putting them before the companies, and, if necessary, taking legal proceedings. This Board, moreover, would be the fit tribunal of arbitration in all matters of dispute between connecting lines."<sup>1</sup>

This recommendation for the establishment of a permanent and effective controlling Board is the central feature in almost every Report that has been made by Committees from 1839 onwards, and, as we shall often suggest below, the constant failures of Parliament to appreciate the recommendation or the inadequate provisions made by the Legislature for carrying out the

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<sup>1</sup> Pp. xiii and xiv.

recommendation, have had most unfortunate results, and have stood in the way of any definite settlement of the great questions between the railways and the State.

The Committee, however, were not prepared to urge the immediate adoption of their recommendations ; they wished for further inquiry next Session ;<sup>1</sup> so nothing was done until another Committee had reported. Practically the same Committee were appointed on January 21, 1840, and made five reports. The third one, dated May 14, is of chief importance ; the others are interesting, but only deal with details of railway matters, such as taxation, telegraphs, engineering questions.<sup>2</sup>

The Third Report investigates “the power given by the Legislature to Railway Companies and its probable effects.” Much of the argument of the previous year’s Report is repeated. It is worth noticing that the Committee fully realized how little they could say, with any finality, on the subject. They speak of the “original error” of the Legislature—namely, “its total misapprehension of the best means of providing locomotive power on railways” ; the belief that it might be “supplied by public competition” ; the idea of a “close analogy between the principles governing railway and canal transport.”<sup>3</sup> They considered the Committee of 1839 to have first appreciated the need of undivided control and authority, and stated their agreement with the conclusions of that Committee to have been only strengthened by further investigation.<sup>4</sup> They pointed out that the railways themselves were still experimenting, “the London and Birmingham do not act as carriers on their own line, the Grand Junc-

<sup>1</sup> P. xiv.

<sup>2</sup> Reports of Committees, 1840, vol. xiii., Third Report from Select Commission on Railway Communication (No. 299). The Reports, evidence, etc., are indexed.

<sup>3</sup> Third Report, 1840, p. 3.

<sup>4</sup> *Ibid.*, p. 4.

tion . . . admit private carriers . . . and compete with them, . . . the Liverpool and Manchester . . . undertake the carriage of all goods . . . whereby private carriers are virtually excluded."<sup>1</sup> While this was so, and railway policy was still in the making, the Committee wisely felt that "any legislative interference for the purpose of preventing railway companies obtaining a monopoly of conveyance, or for the purpose of obliging them to undertake the carriage of goods would be equally objectionable"; they believed that "the appointment of an authority to watch the different systems practised . . . was the course best calculated to insure the protection of the public interests."<sup>2</sup> Their actual recommendations as to this authority were practically the same as those of the Committee of 1839, which were restated in the shape of resolutions,<sup>3</sup> but the seventh and last one was new. The department to be established "should have power to call for any returns, financial or statistical, which may be necessary for the performance of its duties." The result of the Reports of these two Committees was the Act of 1840 for Regulating Railways, often called "Lord Seymour's Act." In introducing the measure Lord Seymour said its chief points were the "establishing of a board of superintendence in connection with the Board of Trade, which should be authorized to call for accounts. . . . All by-laws . . . should be submitted to this Board; . . . it should have the power to enforce all the Acts of Parliament which had any reference to railways. . . . He proposed to give the Board the power of sending an inspector to any railway previous or subsequent to its opening."<sup>4</sup> The Bill

<sup>1</sup> P. 9. There is much information on this question in the Second Report of 1839, p. viii and p. ix; side references to the evidence are given. Full particulars may be found in the valuable returns from railway companies, Appendix I. to Report of 1840.

<sup>2</sup> P. 12.

<sup>3</sup> Pp. 6 and 7.

<sup>4</sup> Hansard, vol. 54, p. 894, June 2, 1840.

passed into law with few important alterations,<sup>1</sup> in spite of protests in Committee, such as that of Captain Boldero, who declared that the provision for making returns was "obnoxious and tyrannical."<sup>2</sup>

The Act provided that notice must be given to the Board of Trade before a railway was opened;<sup>3</sup> the Board were empowered to appoint officers to inspect any railway, "at all reasonable times"<sup>4</sup> the Board could require, under a penalty, returns from every railway company, in prescribed form, of traffic in passengers and goods, and of accidents attended with personal injury, of tolls, etc.<sup>5</sup> Existing by-laws were to be laid before the Board for confirmation within two months, or would become void;<sup>6</sup> no new ones were to be made without the Board's sanction.<sup>7</sup> The Board was also constituted the guardian of the public interests, being empowered to require the law officers of the Crown to proceed against companies which infringed the law.<sup>8</sup>

With this Act must be taken the Amending Act of 1842.<sup>9</sup> Mr. Labouchere had attempted a Bill in 1841, but he failed. The Act of 1842 was brought in by

<sup>1</sup> The original Bill, prepared and brought in by Lord Seymour and Mr. Loch, June 2, 1840, may be compared with its amended forms in Public Bills, 1840, vol. iii. (Nos. 346, 412, 551). The Act ("for Regulating Railways") is 3 and 4 Vict., c. 97, August 10, 1840.

<sup>2</sup> Hansard, vol. 55, p. 921.

<sup>3</sup> Section 1.

<sup>4</sup> Section 5.

<sup>5</sup> Section 3.

<sup>6</sup> Section 7.

<sup>7</sup> Sections 8 and 9.

<sup>8</sup> Section 11. The Report of the Royal Commission of 1865-67 sums up these sections (p. x), but not quite accurately, as it suggests that the Board only had power to inspect new railways, and is misleading as to Section 18. This is, however, only a small matter; special Acts had given to any two Justices of the Peace, "within their respective jurisdictions," power to decide any dispute between railway companies and landowners as to where openings in the "ledges or flanches" of railways should be made for branch lines. This power was now abolished, and by Section 19 vested in the Board of Trade. Section 13 is worth mentioning; it gave Justices of the Peace summary powers of dealing with railway servants guilty of misconduct.

<sup>9</sup> "Act for the better Regulation of Railways and for the Conveyance of Troops," July 30, 1842, 5 and 6 Vict., c. 55.

Mr. Gladstone, Vice-President of the Board of Trade in Peel's newly established Ministry.<sup>1</sup> The chief points in the new Act were that the Board of Trade could no longer require all railways to give notice before their opening, but only those which were intended for "the public conveyance of passengers";<sup>2</sup> if the Inspectors of the Board were not satisfied with the construction of any such railway, the opening of the line might be postponed.<sup>3</sup> Returns of serious accidents "might be required, whether attended by personal injury or not."<sup>4</sup> The eleventh section was in accordance with the recommendation of 1839 as to arbitration: the Board were authorized on the application of either party to decide disputes between connecting railways as to the conduct of their joint traffic, in the interests of public safety, and as to the proportion of expense to be borne by either company. A company refusing to obey the order of the Board in such a case was to forfeit £20 a day.<sup>5</sup>

The Select Committee of 1872 reported summarily of these Acts that they "contained nothing which had any effect in checking or regulating monopoly."<sup>6</sup> The clause mentioned immediately above, as to arbitration, might have been expected to have had some influence on combination generally, and to have enabled a company to appeal against the tyranny of a larger

<sup>1</sup> Lord Ripon was President of the Board until May, 1843, when Mr. Gladstone succeeded him and entered the Cabinet. Mr. Gladstone explained the scope of his Bill on February 8, 1842, when moving for leave (*Hansard*, vol. 60, 165-177).

<sup>2</sup> Section 3.

<sup>3</sup> Section 6.

<sup>4</sup> Section 8. The best commentary on the Bill is the Report of the Railway Department, in which the officers of the Department state the necessity for more definite powers being entrusted to them (*Accounts and Papers*, 1842, XLI., *Report of Officers of Railway Department*, February 6, 1842 (360), p. xv and p. xxi).

<sup>5</sup> The remaining twenty-three sections of the Act are of little importance; the sixteenth, however, is interesting, as it abolishes all the provisions made in early Railway Acts to prevent carriages or waggons carrying more than four tons load.

<sup>6</sup> Report on Amalgamation, 1872, p. v.

neighbour. It was, however, a narrow clause, limited to questions of joint arrangements, and to them only in their public aspect and as to the payments involved, and the Board's arbitration was only invoked at the will of the railways.<sup>1</sup> One is inclined, therefore, to say that this first interference of Parliament did little to control the railways, save that through the returns ordered it enabled the Legislature to get some idea of the position of the railways. Probably it is a mistake to condemn too readily ; the position was a difficult one, and Parliament must needs hesitate to interfere with companies that promised such advantages to trade and to the public generally. And, at least, it must be allowed that these Acts of 1840 and 1842 introduced the system of Board of Trade inspection which, in spite of opposition and neglect, has gradually developed into an important and comprehensive control of safe railway working. The Houses were right in aiming chiefly at the safety of the public ; that before all else was their care, and the Acts show that this consideration was foremost.<sup>2</sup>

Further, if we reflect a moment, we must see that the monopoly of which men were thinking in 1840 and 1842 was a transient one. Any measures aimed against it would have been out of date almost immediately. For it was the monopoly of such a line as

<sup>1</sup> The powers of the Board of Trade and their practical effect are described by Mr. James Booth, Secretary of the Board of Trade, in his evidence before the Select Committee of 1853 : Question 2,186 and following. Mr. Booth was questioned as to the power of the Board to enforce Acts relating to railways, and his answers show that the provisions of 1840 and 1842, enabling the Board to take action through the Law Officers of the Crown, were practically inoperative (No. 2256-59). See also Report of Select Committee on Railways, 1844 ; Index, Board of Trade, Laing's evidence.

<sup>2</sup> So do the Board of Trade Reports ; the first and most important place in them is given to returns and discussions of accidents ; and it is worth noticing that the officers making these Reports pay constant tribute to the efficacy of the Act of 1840 in helping to prevent accidents, and to secure the construction of solid lines. The Report of 1843 is especially interesting.

the London and Birmingham that was contemplated ; Mr. Morrison and others spoke as if this was to be the only line between the two places, and as if no pressure could ever be put upon it to carry all the traffic which wished to go by it. They feared that the company would dictate its terms, refusing to carry this or that class of goods or passengers. No doubt in its early days the company catered chiefly for high-class traffic. But the competition of other lines soon compelled it to court humbler custom, not disdain it, and once that was so the first phase of monopoly was ended. There was then no fear that the company would fail to develop the resources within its territory, or that it would keep its charges above the competitive level. The second phase of monopoly (not even yet reached, perhaps always to be prospective) would only come when such lines as the London and Birmingham had combined with or absorbed all possible rivals and had an absolute territorial monopoly, uninfluenced by adjacent systems of railways, or by rival methods of transport.

Of these rivals, water transport was alone of importance in the forties, and as the railway companies absorbed many of the inland navigation companies, and thereby appeared the more monopolistic, it will be advisable to deal with the canal question at once, and then, in Chapter V., to return to the question of State-control, and see how it was handled by Gladstone in 1844.

## CHAPTER IV

### THE CANALS AND RAILWAY COMPETITION : RAILWAY AND CANAL AMALGAMATION

THE canal system was thoroughly established when the railway era commenced, and in conjunction with improved river navigations it gave the country fairly complete means of communication. The chief construction period was between 1761 and 1792, but Porter (writing in 1847) showed that 583 miles had been constructed in the United Kingdom after 1800,<sup>1</sup> and he stated there were in his time 2,200 miles of navigable canals in England and 1,800 of navigable rivers.<sup>2</sup>

The most complete statistics of inland waterways are those collected by the Royal Commission on Canals, 1906-1909,<sup>3</sup> whose fourth volume contains 500 pages of canal returns, dealing with the history, situation, finance, and working of the canals and inland navigations in the United Kingdom.

The Commission stated that "the total mileage of canals and navigations at present used in the United Kingdom is about 4,670 miles. Of this total extent, about 3,639 miles are in England and Wales, 183 in Scotland, and 848 in Ireland. The whole of the

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<sup>1</sup> "Progress of the Nation," p. 313. Porter gives a list of the canals.

<sup>2</sup> *Ibid.*, p. 304.

<sup>3</sup> Royal Commission on Canals, vol. iv., 1908 (Cd. 3,719). The volume contains admirable maps of the canals.

system was completed before 1830, excepting the Manchester Ship Canal and a few short cuts or arms. The mileage in 1830 was larger than that given, because since 1830 a considerable length of waterway has been converted into railway lines or has gone entirely out of working operation.<sup>1</sup> The Royal Commission collected traffic returns for the waterways; these show that in England and Wales in 1905 13,702,356 tons were carried on waterways owned or controlled by railways, and 20,434,411 tons on independent waterways.<sup>2</sup> It is perhaps worth noticing that the total annual traffic of the inland navigations is considerably less than that of a single large railway company—six million tons less, for instance, than the average traffic in minerals alone of the Midland Railway. To this comparative insignificance have the powerful canal companies of eighty years ago fallen.

It is generally thought that railways crushed out canal competition by unfair means. It is true that 1,360 miles of canals—nearly one-third of the total mileage of 1905, quoted above—are owned or controlled by railways, and we must inquire how the railways obtained that control, and whether they used it unfairly.

We shall find that, though the railway companies were far from acting philanthropically towards their struggling rivals, they were not generally guilty of unfairness, and the canals failed more because they were backward, unenterprising, and unorganized, than because their rivals were unscrupulous in their attack. We shall also see that the chief transfers of canals and railways were made in the mid-forties, when railway

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<sup>1</sup> Report (Fourth and Final) of Royal Commission, vol. vii., 1909 (Cd. 4,979), p. 14.

<sup>2</sup> *Ibid.*, p. 63. There are only two "railway controlled" waterways, the Birmingham Canal and the Sheffield and South Yorkshire Navigation, but the former (the Birmingham Canal), controlled by the L. and N.W.R., carries a very heavy tonnage (in 1905, 7,546,453 tons).

progress was at its height, and that the subsequent attempts of Parliament to retain the independence of the waterways and strengthen their competition with the railways were either too late or were made in a half-hearted fashion. The attitude of the canals in the thirties, when railways began to threaten them, may be compared with the attitude of the woollen industry more than 100 years earlier, when cotton first appeared as a possible rival industry. It was indeed the regular attitude of vested interests towards progress. The suggestion of competition did not stir the woollen master or the canal proprietor to energetic action in the form of more efficient operations. They both stood where they were, conservative and unenterprising, and met their competitors by appeals to Parliament for the protection of their well-established monopolies, rather than by over-hauling their methods and making them more suitable to changed conditions.

The canal interest was, of course, a comparatively new one ; it had no historic claims such as the woollen industry could put forward. But it had established itself very rapidly, and showed no sign, in 1835, of the initiative and enterprise which had marked the beginning of the system in the face of bitter opposition from older interests, some sixty years earlier.

Something of the same sort might be said of the English railway companies in the last years of the nineteenth century, when they in turn had been in existence for sixty years. In those years the new school of enterprising managers had not yet appeared, and the companies were not remarkable for activity. It was certainly fortunate for them that the road competition of self-driven vehicles came a little later, and one is tempted to ask whether a generalization might not be framed as to the tendency of joint-stock concerns to become inert at the end of the second generation.

Joseph Sandars' letter on the projected Liverpool

and Manchester Railway<sup>1</sup> illustrates the spirit in which the great canal proprietors met the early railway promoters, and throws light on the monopolistic policy of the canals, and the stimulus it afforded to the discovery of an alternative means of transport. When the Liverpool and Manchester Railway was first thought of, the Committee for the scheme approached Captain Bradshaw, the Bridgewater Canal agent, hoping that he might be induced to give traders better terms for canal service ; failing that, he was asked to take shares in the railway project, but he met this suggestion with uncompromising hostility.<sup>2</sup> The two canal companies between Manchester and Liverpool worked together ; they knew that lack of water made the construction of a competing canal impossible ; they had secured all the quays, wharves, and warehouses, so that bye-carriers could not compete, and thus having a certain monopoly, they had made great increases in their freight rates since 1795.<sup>3</sup> The rates in 1824 were about double those in force at the time of the opening of Bridgewater's Canal.

As to their profits, Sandars stated that the thirty-nine original proprietors of the old Quay Canal had received every other year for nearly half a century the total amount of their investment ; as to the other, the Bridgewater Canal, the net income for the last twenty years was believed to have averaged nearly £100,000 per annum.<sup>4</sup> Such profits might have tempted angels to oppose competition, but it was sheer folly to rely solely upon opposition. The canal proprietors might have taken stock of railway possibilities, and have found,

<sup>1</sup> Liverpool, 1825. This pamphlet, and also Sylvester's Report on Railroads, etc. (Liverpool, 1825), and T. G. Cuming's "Origin and Progress of Rail and Tram Roads" (Denbigh, 1824), are reviewed at length in the *Quarterly Review* for 1825, vol. xxxi., p. 349.

<sup>2</sup> *Quarterly Review*, 1825, vol. xxxi., p. 366.

<sup>3</sup> Sandars' Letter, pp. 7-9 and 13. On p. 8 he gives an account of the heavy warehouse rent exacted from the Manchester Grocers' Company by the Bridgewater Trustees.

<sup>4</sup> *Ibid.*, p. 21.

as the railway promoters did, that a railway was a sound project, offering great economies over canal transport. They should have realized the disadvantages of canal transport—between Manchester and Liverpool the navigation of eighteen miles of the River Mersey, with its rapid tide, meant serious delay and loss in stormy weather<sup>1</sup>—and have made some concessions to the railway party when the latter were only commencing their campaign, and might have been dissuaded from proceeding, by freight reductions and improved facilities on the canals.

But in the early railway days, canal proprietors made little attempt to face their danger in a businesslike way;<sup>2</sup> they used their power to oppose Railway Bills and to add to the cost of railway promotion and of the land required by railways. They only resorted to freight reductions later, when the railways had come into existence and were proving their superiority.

We have mentioned the profits made by the Liverpool and Manchester canals. The Birmingham canals, which were also accused of charging excessive rates, were also paying enormous dividends. Cuming mentions one of them paying an annual dividend of £140 on an original share of £140, and another paying £160 on an original share of £200; the share was quoted at £4,600.<sup>3</sup> Many other examples may be found,<sup>4</sup> but it must not be thought that all canals were

<sup>1</sup> Sandars' Letter, p. 17.

<sup>2</sup> See Report of Select Committee on Railways and Canals Amalgamation, 1846; evidence, Question 338. Asked why the Oxford and Birmingham Canals have not reduced their high tolls, the Chairman of the Grand Junction Canal replied: "They have been actuated by the common narrow feelings of mankind—to gain as much as they can without looking to the fatal consequences of such policy."

<sup>3</sup> *Quarterly Review*, vol. xxxi., p. 360. Similar figures are given in an anonymous pamphlet, "Statement of Claim of Subscribers to Birmingham and Liverpool Railroad to an Act of Parliament" (1825).

<sup>4</sup> See also canal prices quoted by Morrison, p. 68, and list of prices of August, 1824, given on p. 4 Report of Royal Commission on Canals, 1909. Prices (from Wettenhall's list) for December, 1824, are also given on p. 58 of the pamphlet mentioned in the preceding note.

successful. In the canal mania that preceded 1793, many unnecessary canals had been constructed, and they paid very small dividends, or nothing at all.<sup>1</sup> A careful examination<sup>2</sup> of the results of 80 canal companies showed, in 1822, that

- 23 companies had spent or would spend £3,734,910, and had paid nothing;
- 14 ditto £4,073,678, and were paying in dividends £92,281;
- 22 ditto £2,196,000, ditto £162,400;
- 11 ditto £2,073,300, ditto £216,024.

The 10 remaining companies had spent £1,127,230, and were paying in dividends (at the rate of £20 and upwards per share) £311,554. Putting all these results together, we find that a total capital of £13,205,000 was yielding about  $5\frac{3}{4}$  per cent. interest. It is not possible to state the profits of the canals at the present day; the companies owned by railways have no distinct capital account of their own, and many of the independent waterways, managed by public bodies, have no ordinary stock, though they may be paying interest on loans. Of private independent companies, some are paying no dividend and few pay more than 3 per cent. The ordinary stock of the Birmingham Canal received 4 per cent. in 1905 in consequence of a guarantee from the controlling L. and N.W.R., but the revenue of the company would not have enabled it to pay  $2\frac{1}{2}$  per cent. in 1905. The few companies paying high dividends owe their profits chiefly to the smallness of their capital and the appreciation of their landed property.<sup>3</sup>

Turning now to the forties, we find the history of the struggle between railways and canals well set out in various Parliamentary inquiries. The Committee of 1840<sup>4</sup> looked into the question of canal competition,

<sup>1</sup> *Quarterly Review*, vol. xxxi., p. 355.

<sup>2</sup> Joseph Lowe, "Present State of England," 1822; *Quarterly Review*, 1825, vol. xxxii., p. 170.

<sup>3</sup> Royal Commission on Canals, Report, pp. 67, 68.

<sup>4</sup> Third Report, 1840, p. 8.

and assumed that railways had obtained a complete monopoly for the conveyance of passengers, but as regards goods, "the canals still retain their business, and, having reduced their charges, continue to be used. . . . As far as regards the heavy merchandise, it appears probable that the canals will always secure the public against any unreasonable demands on the part of the railway companies ;<sup>1</sup> but your Committee are aware that instances are not unfrequent where companies and large capitalists, instead of competing with each other and acting in rivalry, have combined and entered into agreements whereby the public have suffered. In proportion as the carriage of goods by turnpike roads is gradually abandoned, and the capital now employed in this means of conveyance is transferred into other trades, the opportunity of a combination between canal and railway proprietors will be facilitated, and the whole internal commerce of the country may be, under such an arrangement, disadvan-

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<sup>1</sup> This, which would obviously be the chief requirement of traders, is well instanced by a petition of 1847 presented to the Commissioners of Railways by Birmingham merchants, manufacturers, and traders (*Railway Times*, May 15, 1847, p. 691). The petitioners recognize that some railways are carrying at such low rates as to render canal competition impossible. They argue, however, that the railways will only do this during their struggle with canals ; when the canals have been reduced to poverty, bought up by the railway companies or left derelict, the railways will use the monopoly thus obtained, and will put their charges up to the highest possible limit. Therefore the petitioners ask the Commissioners to inquire into the matter, and to prevent any railway from obtaining control of canal communications. The arguments of the traders throw a curious light upon their modern grievances, and show clearly how, alike in 1847 and in 1909-10, their chief aim has been to preserve competition, and the facilities it has afforded them : "The canal carriers afford the public great accommodation by warehousing goods . . . by collecting at such hours as may suit . . . the larger manufacturers, etc., . . . while the railway companies can never have sufficient room for warehousing, but, on the contrary, impose arbitrary fines for non-removal of goods, etc. The reason of this difference is that the canal carriers are sufficiently numerous for the public to derive from their rivalry every benefit which they can severally offer in their competition for the public favour."

tageously influenced and controlled."<sup>1</sup> It was in consequence of this that the Committee inquired into the different systems of carriage on railways—the road-carriers in many petitions urged that railway monopoly would be prevented if railway companies were prohibited from acting as carriers; but, as we saw, the Committee realized that the whole question was in the making, and they refrained from suggesting a solution. The Committee of 1844—Mr. Gladstone's—likewise avoided the question, though, in the evidence taken before them, there were some interesting references to canals. Mr. Laing, of the Railway Department of the Board of Trade, gave it as his opinion that railway property would probably never reach such a high point as some canal property had, "unless Parliament gave railways an absolute monopoly, and prohibited competition in every form."<sup>2</sup> He had heard of £100 canal shares being sold for £3,000, while £250 was the highest reached by similar railway shares.<sup>3</sup> The question, however, of railways buying up and amalgamating with canals was hardly looked at: the Committee were afraid that competition was dead, but they did not look to canals, but rather to State interference as their remedy. The committee of 1846 on railway and canal amalgamations, however, paid the subject the attention it deserved.<sup>4</sup> In their second report, they said<sup>5</sup> that the 2,500 miles of inland navigation in Great Britain had, "up to a very recent period, furnished almost the exclusive means of conveyance of heavy goods and merchandise . . . On the introduction of railways, and in the early period of their development, when want of experience and the

<sup>1</sup> Third Report, 1840, p. 9.

<sup>2</sup> Select Committee, 1844, Question 1,569.

<sup>3</sup> Questions 1,570, 1,571.

<sup>4</sup> Wilson Patten's Committee (*Reports of Committees*, 1846, vol. xiii., Nos. 200 and 275). See p. 129 below.

<sup>5</sup> P. iii. "2,500 miles" must refer to canals, exclusive of navigable rivers.

absence of information . . . rendered it impossible for the Legislature to impose proper restrictions and limitations on the tolls of the various companies, competition . . . with the canals checked any great abuse of the powers delegated to them." As the railway system extended, the canals in turn were checked ; in some instances their charges were reduced to one-seventh of their former amount, "and there are now few parts of the country which have not derived material advantage from the competition between Railways and Canals."

Striking evidence of these reductions was given by the Chairman of the Grand Junction Canal Company in a table which he put before the Committee.<sup>1</sup> This company had been authorized to charge, and had charged a rate of 16s.  $3\frac{3}{4}$ d. on sundries, and of 9s. 1d. on coals : these had both been reduced since 1836 to 2s.  $0\frac{1}{4}$ d. The table showed similar reductions on five other smaller canals, which were "as regards tolls, practically amalgamated" with the Grand Junction.<sup>2</sup>

The Committee reported that they had considered the advisability of recommending Parliament to refuse its assent to all Bills uniting canals with railways ; "competition depends in some degree on the complete independence of the canal system, and any interference with a link may greatly affect the whole chain."

But the Committee did not believe that the two systems could be preserved in entire independence of

<sup>1</sup> Evidence, Question 334. See also Cohn, ii., pp. 345-46, for an account of the Grand Junction Canal, and the fall of its dividend from 13 per cent. in 1836 to 3 per cent. in 1852. Cohn's treatment of the canal question (vol. ii., pp. 342-56) is an excellent review of the general economic problem of inland water transport. He concludes that State ownership is the only way of reviving canal competition, but the question is too speculative for him to consider it (p. 356).

<sup>2</sup> Evidence of Sir F. B. Head, Question 318 onwards. The witness admitted generally that the amalgamation of his canals had made greater reductions possible, and put in another table (Question 337), showing the traffic carried since the amalgamation, but he gave no definite evidence on the point, though pressed by the Committee.

each other, and they concluded that it would "not be politic altogether to refuse the sanction of Parliament to the amalgamation of railways with canals." They considered that the relations of railways and canals among themselves were so complicated, that "no enactments passed by Parliament could provide for all contingencies." They therefore recommended "after mature consideration that some department of the executive government . . . should be charged with the supervision of railways and canals, with full power to enforce such regulations as may from time to time appear indispensable for the accommodation and general interests of the public."<sup>1</sup>

A Select Committee of the House of Lords supported this recommendation,<sup>2</sup> while the other Commons Committee of 1846—known as Morrison's Committee—likewise urged the same point, speaking in the strongest language of the danger to which the country was exposed through the want of a Board of supervision.<sup>3</sup>

The Act constituting the railway commissioners was accordingly passed, but, as we shall show in Chapter VI., the commissioners were abolished within five years, and though during their career they attempted to control the management and maintenance of railway-owned canals, they were not given the necessary powers to regulate questions of amalgamation.<sup>4</sup>

But even a powerful commission could have done little, for the transfers of canals to railways had mostly

<sup>1</sup> Second Report, pp. iv and v.

<sup>2</sup> Report from Select Committee of Lords on Management of Railroads, etc., July, 1846, p. 7 [Reports Committees, 1846 (489), XIII.].

<sup>3</sup> Select Committee on Railway Acts Enactments, 1846; Second Report, pp. x and xix.

<sup>4</sup> The Commissioners took power to revise by-laws relating to canal traffic, regulate canal-tolls, order canal repairs, etc., in the case of various railways which acquired canals by Acts subsequent to 1846. See Report of Commissioners of Railways for 1848, p. 37; and abstracts from the Acts in question, in Appendix 43 to this Report, and in Appendix 60 to Part II. of the Report.

been effected by 1847. 1846 was the most important year; during the year sixteen canals, with a total length of 774 miles, were amalgamated with, leased to or purchased by, railway companies, and the four canals which had been consolidated into the Birmingham Canal Navigations, one of the most important systems in the country, were put under the control of a railway company by the London and Birmingham Railway and Birmingham Canal Arrangement Act, 1846.<sup>1</sup>

Of the waterways acquired by railway companies up to the year 1872, 22 transfers out of a total of 36, took place in the three years 1845, 1846, and 1847.<sup>2</sup>

Still more striking perhaps is an estimate made in 1882, showing that out of the total of 1,260 miles of canal which up to that date had come into the ownership or under the control of railway companies, 78 miles were under Acts of 1845, 96 under Acts of 1847, and 774 miles, considerably more than half of the total length, under Acts of 1846.

The reasons for these transfers are disputed, and the controversy may be followed in the Report of the Royal Commission on Canals of 1909, and in the separate Report by Sir James Inglis appended to it.

It has generally been said that railways "acquired canals in order to strangle them"; the Report declares this to be untrue, but continues: "It is true to say that railway companies having, from various causes, acquired canals, feel, with few exceptions, little desire to do more than their barest legal duty in maintaining

<sup>1</sup> Report of Royal Commission on Canals, p. 11; and evidence, vol. iii., Appendix No. 16, pp. 48, 49, where Mr. Jebb gives full particulars of the arrangement, and of the deficiencies made up by the L. and N.W.R. since 1874.

<sup>2</sup> Report on Amalgamation, 1872, Appendix A. Full details of the distribution of the railway-owned canals among the various railway companies may be obtained from the detailed return, Appendix T. in this Report. The L. and N.W.R., with 642 miles of canal, is by far the largest owner.

them."<sup>1</sup> The chief point in which Sir James Inglis differs from the main Report is on the attitude of the railways to the canals. He argues that the main Report errs in suggesting that the railways were anxious to get control over canals ; had the railways been free they would have scorned the canals, conscious of the vast economic superiority of their own form of transport. But the canal interest was powerful, and as the Government dared not interfere the railways had to make the best terms possible with that interest. The railways did not voluntarily purchase canals ; they did not want them *qua* canals, though they certainly feared their conversion into railways, and were compelled to buy them up to prevent such conversion, or to avoid their obstructive opposition in Parliamentary Committees.

We do not wish to comment upon a matter of recent controversy. But we suggest that even greater weight than that given by the Royal Commissioners should properly be given to the effects of the speculative enthusiasm about 1846. Many projects were carried through at that time, which would not have been thought of in more rational times. The prospects of railway success seemed so great and the public were so eagerly taking up each new railway scheme that some canal proprietors despaired of their own future unnecessarily,<sup>2</sup> and others were unduly anxious to transform their canals into railways, or to be taken over by railway companies, in order that they might have a

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<sup>1</sup> Report of Royal Commission on Canals, 1909, p. 77.

<sup>2</sup> Scott's evidence, Committee on Amalgamation, 1846. Question 558 : "Canals ought not to despair so much as they seem inclined to do." Mr. Scott argued that railways were able to compete most severely with canals, because they could carry goods at a loss, recouping on passenger traffic (he gave instances of this) ; but the idea underlying his words above seems to have been that railways could not continue this policy for any length of time, and if only canals held out, they would be successful again in a few years' time. But, on the other hand, there is evidence such as that of Mr. Betts, of the Oakham Canal Company (Question 506) : "There is no possi-

share in the anticipated prosperity of railways.<sup>1</sup> On the other hand, the railway companies were too ready to buy up on lavish terms any concern that could threaten them with competition. Moreover, Parliament had not the time to examine the many Bills presented, and among the schemes that were sanctioned in 1846, there were some that would not have been accepted in more cautious times—for example, schemes giving railway powers of the most aggressively competitive character to canal companies.

It must, however, be repeated that the organization of the canal companies was lacking, and that they were in no condition to face the railway interest. The Committee of 1846 spoke<sup>2</sup> of the “present disjointed

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bility of anyone keeping the Oakham Canal open unless it is the railway company.” He referred to the Midland Railway, who were about to purchase the canal.

<sup>1</sup> The best-known instances of canal proprietors seeking for railway powers are the Birmingham Canal Navigations, and the Trent and Mersey Canal. Both obtained their objects in 1846. But in the former case the proposal to make a railway alongside the canal led to the Birmingham Canal Navigations coming under the control of the London and North Western Railway (Royal Commission on Canals, 1909, Report, p. 10). In the latter case (“a unique one,” in the words of the Royal Commission’s Report, p. 9), the canal company turned itself into a railway company, the North Staffordshire Railway, owning a parallel canal of greater length than the railway, and surviving at the present day with both railway and canal in prosperous condition (Report, pp. 35, 36). Very interesting evidence on the inception of this undertaking was given before the Committee on Amalgamation, 1846, by Mr. T. L. Ricardo, chairman of the company, who argued that an independent railway must have killed the canal, since the indirect competition of the Midland and Grand Junction Railways had reduced the canal shares from £1,200 to £450 (Question 529). The history of the canal is given by the Royal Commission on Canals, vol. iv., Returns, 1907, p. 333. Mr. Williams, in his evidence before the Committee on Amalgamation, 1872, Question 3,590, complained of the hostility of the North Staffordshire Company to other canals.

<sup>2</sup> Second Report on Amalgamation, 1846, pp. 3 and 4. See also a pamphlet of 1846, entitled “Hope for the Canals,” by Thomas Boyle. The writer takes a narrow view of the railway and canal problem, insisting that railway companies have depreciated canal prospects in order to buy them up cheaply, and this not to prevent competition, but to profit by working the canals (p. 7). But the

state of the canal interests" and the difficulty of affording the canal system a "full opportunity of testing its capabilities as a rival" to railways. And the Committee further showed that the railways which blocked a canal line by getting control of a portion of it and raising the tolls there to the utmost limit allowed by law,<sup>1</sup> were following a course of action which these disunited canal companies had practised among themselves ; speaking of such canals, which, forming central links in a great chain, put up their charges "so as to secure a large return for their capital, even upon a small amount of traffic," the Committee said this practice compelled the other less favourably situated companies to reduce their rates to an unprofitable level, and prevented such a general reduction along the line as would enable the several companies in combination to maintain a fair competition with the railways.<sup>2</sup>

Evidence of the bad management of the canals, and of their lack of cordiality to each other was put before the 1846 Committee. Mr. Robert Scott, M.P., chairman of the Birmingham Canal Company, said that canals could compete with railways if they acted properly, "but the canals have been for many years in so bad a condition . . . that the traffic has never had fair play."<sup>3</sup>

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writer admits that the canals have fallen into disrepair, and he contrasts the "air of assumption and parade about a railway" with the "undisguised sluggishness" of canals (pp. 20, 21).

<sup>1</sup> The evidence on this point is mainly contained in the examination of Sir F. B. Head, who protested against the sale of the Regent's Canal (the canal remained independent), but his answers (see especially Question 358) show how little direct purchase of links had been done by the railways. The evidence of Mr. Sutton (carrier), Questions 407-411, also brings out this point.

<sup>2</sup> Second Report on Amalgamation, 1846, p. 4 ; cf. Scott's evidence, Question 558 ; canal grievances in the conduct of other canals.

<sup>3</sup> Evidence, Question 554. See also Ricardo's evidence, Question 537, when asked whether he would be willing to make the Trent and Mersey minimum charges the maximum on the new North Staffordshire Railway and Canal : "I think the whole system of charges on canals has been so bad, I am not prepared to stand by any part of it. . . . They have bad arrangements altogether—particular arrangements with particular people ; no general system."

It appears to be clear that when they were flourishing the canals had not combined in a manner that would facilitate intercommunication. When their prosperity was suddenly snatched from them, they made no attempt to meet the railway attack by intelligent combined action.

One other point must be noticed. The introduction of steamships into the coasting trade was depriving canals of considerable traffic. Priestley, in his "Historical Account of Inland Navigation" (1831), had spoken of the Kennet and Avon Canal as forming "in conjunction with the Bristol Channel and the estuary of the Thames, the central line of communication between the Irish Sea and the German Ocean."<sup>1</sup> The English Channel presented such obstacles to the sailing-ship that the tedious navigation of the Severn, the Avon, the Kennet, and the Thames may have been very popular, but it lost all its advantages when steam navigation was introduced. And in other cases traffic was similarly transferred from the canals, not to the railways, but to the coasting-ship.<sup>2</sup>

Cardwell's inquiry into amalgamation in 1853 brought to light some instances<sup>3</sup> of the oppression of canals by railways, though the Committee found that the union of the two had often resulted from "the

<sup>1</sup> Quoted by Royal Commission on Canals, 1909 ; Report, p. 5.

<sup>2</sup> Morrison's Committee reported in 1846 (Second Report, p. 10) that the railways were encroaching on the coasting trade, and, failing to foresee the powerful competition that the steamship would offer to the railway, adduced this as another proof of the monopolistic nature of railways.

<sup>3</sup> Fifth Report, p. 11. Mr. Lock's evidence, Question 1,665 ; table showing that the Leeds and York Railway charged as much for the mere use of their Bolton and Bury Canal as for the actual carriage of goods on their railway. Question 1,656, an interesting example of railway astuteness, Mr. Lock pointed out that some railway companies made arrangements with canals without the sanction of Parliament, claiming that, as owners of canals, they came within the Act of 1847, which gave canal companies the power to make arrangements among themselves. The intention of the Act was, of course, to strengthen canals against railways.

influence of canal proprietors who compelled the railway company to buy off their opposition by amalgamating them on favourable terms," and they were, accordingly, unable to suggest the prohibition of railway and canal amalgamations.

Turning to the sixties, the Report of the Royal Commission made no important reference to the canal question, but the evidence of Mr. Thomas Wilson, Honorary Secretary of the Canal Association of Great Britain (formed in 1856) contained some valuable statistics. Mr. Wilson estimated that there were in England and Scotland 109 canals of the total length of 2,552 miles, and 49 improved rivers, 1,339 miles ; of this, however, 5 canals (length 68 miles) had been converted into railways ; one-third of the remaining mileage, 37 canals with a length of 1,026 miles had been amalgamated with railways ; two others, with a length of 177 miles, were controlled by railways.<sup>1</sup> Mr. Wilson stated that the railway companies aimed at a monopoly of the carrying traffic, and that they did not give the public the same facilities on canals as would be given if the canals were independent. But he admitted that the railways lost money on their canals, though he argued that they did this willingly, recovering the loss by increased railway traffic.<sup>2</sup>

The question of the canals was more thoroughly examined by the joint committee on amalgamation of 1872. There had been no amalgamations of canals with railways since 1865, but the Midland Railway had applied in 1872 for power to acquire the Worcester and Birmingham canal ; they failed.<sup>3</sup>

<sup>1</sup> Royal Commission on Railways, 1865-67 ; evidence, Questions 9,899-9,904. Question 9,905 : The witness named the railway companies owning canals, and put in a list showing the canals amalgamated (Question 9,906). Mr. Wilson's estimate may be compared with that of Mr. Calcraft, prepared for the Select Committee on Canals, 1883 (Appendix III.).

<sup>2</sup> Questions 9907-17.

<sup>3</sup> Worcester and Birmingham Canal merged by Act of 1874 in

The Committee stated that railways were particularly anxious to suppress canals, because on canals the railways carried in competition with other barge owners, but on rail they were the only carriers. They took it for granted that the railways had used, adversely to the interests of independent canals, those links of canal communication they possessed, but they concluded that "the forces which have enabled railways to undersell<sup>1</sup> canal companies will continue to operate; and when canal shareholders come to Parliament alleging that the only way of saving their property is to let a railway company buy it, it is difficult for any committee to refuse its sanction." They considered the possibility of solving the difficulty by State purchase of canals, but decided against such a policy: "for the good canals a high price would have to be paid, whilst the poorer canals would at any price be a bad bargain." The railway companies would oppose the transfer of railway canals to the Government "not only on account of the direct profit they get from them, but on account of the profit they make by suppressing their competition"; and if the purchase were made, it was doubtful whether competition with railways could be maintained except for short distances and special traffic.

The Committee recommended that no waterway in the hands of a public trust should be allowed to come into railway hands; that Parliament should favour the application of such a trust to purchase a railway canal; that the utmost facilities should be provided for canal amalgamations; that no canal should be transferred to a railway company, unless it had been proved that the canal could not be worked by adjacent navigation companies; that when a canal-owning railway company

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Sharpness New Docks, etc., Company (Royal Commission on Canals, 1907, vol. iv., p. 39, note 13; and Report, 1909, p. 15).

<sup>1</sup> Cf. Ricardo's strong evidence (Committee on Amalgamation, 1846; Questions 529 to 531) on the power of a railway to "annihilate" a canal.

applied for further powers, Parliament should consider the modification of the company's ownership of canals; that canals should be efficiently maintained, and that through-traffic and the quoting of through-tolls should be facilitated.<sup>1</sup>

The result of the Committee's recommendations was the Railway and Canal Traffic Act, 1873, which neglected the question of canal amalgamation, but established the Railway Commission as the tribunal which should decide disputes as to through-rates or tolls, replacing the jurisdiction of the Court of Common Pleas under the Railway and Canal Traffic Act of 1854, and which compelled railway companies owning or managing canals to keep the canals and their works in thorough repair, and to maintain their supplies of water. When the Act of 1873 was extended by that of 1888,<sup>2</sup> many new provisions were made with regard to canal charges, returns to the Board of Trade, by-laws, agreements between canal companies, and the abandonment of derelict canals;<sup>3</sup> but these had little effect on the canal problem, and did not succeed in stimulating the competition of canals with railways, or in promoting the combination of canal interests. Indeed, the recommendations of the Committee of 1872 have borne so little fruit that the Royal Commission of 1909 found that the position had hardly changed at all in the thirty-seven years that had intervened. It is true the Committee on Railway Rates in 1882 had made some unfavourable comments on the attitude of railways to canals, and a committee had been appointed to inquire

<sup>1</sup> Committee on Amalgamation, 1872, pp. 23, 24. See also the letter from the Association of Chambers of Commerce of the United Kingdom to Mr. Joseph Chamberlain, President of the Board of Trade, stating that if Parliament encouraged independent canals as recommended by the Committee of 1872 a grand and cheap system of water carriage might be created (Select Committee on Railways (Rates and Fares), 1882, Appendix 20).

<sup>2</sup> Railway and Canal Traffic Act, 1888, 51 and 52 Vict., c. 25.

<sup>3</sup> Sections 36 to 46.

into the condition of the canals in 1883, but the latter never reached their report stage, and did nothing beyond presenting some valuable evidence.<sup>1</sup>

Consequently, the chief recommendation of 1909 was much the same as that of 1872—"amalgamate the canals"—though in 1909 it was a forced and State-aided amalgamation that was suggested.

It is remarkable that the canals never adopted this policy of amalgamation which the railways were using against them. From what we have said of the canals in the forties, it is perhaps clear that at that period they were too disorganized to attempt combination, too paralysed by the suddenness of the railway attack to think of united resistance. But in subsequent years, when Parliament was so ready to help them against the railways, they still remained independent of each other. There had been a few cases of canal amalgamation during the first forty years of canal history—hardly enough to justify the Royal Commission in speaking of a tendency in this direction<sup>2</sup>—and there were a few other such exceptional cases in later years, but nothing of any importance even after the strong recommendations of the Committee of 1872. The evidence given before that Committee throws some light on the question. Mr. Williams, the engineer to the Severn Commissioners, who spoke of the evils of the amalgamation of canals with railways, said that within his recollection no scheme for the amalgamation of one canal with another had ever assumed a definite shape.<sup>3</sup> He said that canals

<sup>1</sup> Select Committee on Railways (Rates and Fares), 1882, Report, p. 13; Select Committee on Canals, 1883 (252). The Report of the latter simply presents evidence, and recommends that the Committee be reappointed next session to continue their work. They were not reappointed. The evidence, with appendices, covers 400 pages. A large part of it deals with the Canal Boats Act (1877), the life, morals, and education of the children on the barges.

<sup>2</sup> Report of Royal Commission on Canals, 1909, p. 15. See above, p. 12, note 1.

<sup>3</sup> Report on Amalgamation, 1872 (Question 3,604).

had not the power of amalgamation that had been granted to railway companies,<sup>1</sup> but did not explain this point.

Mr. Lloyd, another canal engineer, said he was not aware of any tendency towards combination among the canals,<sup>2</sup> but he spoke of an attempt, five years earlier, to amalgamate all the independent canals south of the Staffordshire district, which was abandoned because pieces of the system were in railway hands. Mr. Williams had also suggested that this was an obstacle in the way of canal amalgamation.

Mr. Lloyd, however, in his evidence before the Committee on Canals ten years later, had to admit<sup>3</sup> that the canals were to blame in fighting against each other, instead of trying to amalgamate, and he agreed that on the line of canal from London to Birmingham, and from London to Hull, there were no intermediate railway-owned links of canal;<sup>4</sup> railway ownership, in fact, was not an obstacle to amalgamation in either case.

It is, of course, a truism that canal companies which are merely toll-proprietors and not carriers have not the same incentive to amalgamate as the companies which carry over their own systems; the functions of owner and carrier are almost invariably combined by railway companies, but only exceptionally by canal companies.

But it is also a truism that union is strength, and following the precedent of turnpike amalgamation, as well as of railway amalgamation later, the canal companies should have united. They might not have

<sup>1</sup> Question 3,594.

<sup>2</sup> Question 5,030.

<sup>3</sup> Select Committee on Canals, 1883 (Question 396).

<sup>4</sup> Questions 751-765. See also the evidence of Mr. H. R. de Salis before the Royal Commission on Canals, 1909; Question 1,448: "Combination among canal proprietors has never come to anything tangible." He mentioned many obstacles in the way of united action, among others the absence of clearing-house arrangements, and the varying policy of the companies as to the time at which they closed for repairs.

been in a position to reap the positive gains accruing to operation on a larger scale, but they would have been in a far stronger position to oppose railways, and they could have planned in harmony some general delimitation of the respective spheres of canal and of railway territory, had they united even as late as the forties. As it is their history is a warning at once against lack of initiative and preparation and against selfish independence. Those who see in the history a proof of the economic superiority of railways over canals in England may rejoice that the canals were disorganized and divided, and thus debarred themselves from taxing the railways still more heavily than they did. That, perhaps, is the most practical point of view. But the student of economic matters may also find in the history of canals an excellent example of the danger that attends inaction and want of combination.

## CHAPTER V

### GLADSTONE'S ACT

GLADSTONE attempted something far more drastic than the mere strengthening of competition against the railways. He sought in 1844 to give the State a direct control over them. He failed partly because the pressure of other business prevented him from returning after 1844 to the problems which he had rather hurriedly tackled in that year ; partly because the railway interest was too strong for him. Reviewing the question in the light of some seventy years of subsequent railway history, it seems clear that Gladstone's ideas were wiser than those of his railway opponents, and that the railways would have suffered less had he been allowed to deal with them as he wished than they have from subsequent piecemeal and unsystematic legislation.

Gladstone moved for a Committee of Inquiry on February 5, 1844. He remarked that previous inquiries had left their labour incomplete, that standing orders needed modification, that third-class conditions needed examination, though some leading railway men were of their own accord disposed to improve them. He thought that speculation in railways would shortly come on again, and considered the present was the proper time to inquire. He referred to the Midland Amalgamation Bill, and said that obviously such amalgamations gave the railways advantages ; the House might therefore consider whether such railways

might not be asked to give the public an equivalent advantage.<sup>1</sup>

Sir Robert Peel, the Prime Minister, cautiously endorsed these remarks ; he was "not at all insensible to the evils of monopoly which he considered Parliament has given to the existing railway companies" . . . but he declared that a great distinction must be made between new companies and companies which on the faith of Parliament had invested capital in the establishment of great railways. Parliament might repent of its indiscretion, but the powers had been granted.<sup>2</sup> Peel's firm adherence to this distinction was, as we shall see, one of Gladstone's chief obstacles.

The motion was agreed to,<sup>3</sup> and a strong Committee<sup>4</sup> appointed to "consider whether any new principles ought to be introduced into such Railway Bills as may come before the House during the present or future Sessions." With Gladstone as Chairman the Committee interpreted this reference widely and touched almost every question affecting railways, in six Reports which appeared between February 16 and July 22, 1844.<sup>5</sup> The First, Second and Fourth Reports contained short recommendations affecting Private Bill procedure. The Third Report contained the recommendations for revision of charges and for Government purchase which particularly distinguish this from other Committees. The Fifth Report dealt with the rating of railways, the conditions to be attached to the grant of new powers to companies, the degree of supervision that a Government Department should exercise over future railway schemes, the problems of competition and combination, and some minor questions. The

<sup>1</sup> Hansard, vol. 72, pp. 232, 234.

<sup>2</sup> *Ibid.*, p. 249.

<sup>3</sup> *Ibid.*, p. 256.

<sup>4</sup> The Committee numbered fifteen, and included Mr. Gladstone, Lord Seymour, Mr. Wilson Patten, Mr. Labouchere, Lord Sandon, and Mr. Beckett Denison.

<sup>5</sup> Reports of Committees, 1844, XI.

Sixth Report recommended a General Railway Act embodying all such enactments as were common to all railway companies.

This was a work of great scope, as broad and general a review of railway problems as was ever undertaken. But it was too early to make definite pronouncements of any great value on many of the subjects treated, and the novelty of the investigation may be gathered from the fact that the Committee spent their first six sittings in hearing evidence from Mr. Samuel Laing, Law and Corresponding Clerk of the Railway Department of the Board of Trade, who was largely occupied in explaining to the Committee the existing state of affairs in Parliamentary procedure, and the general features of railway promotion and legislation:<sup>1</sup> amongst the other witnesses called were George Hudson; Mr. Glyn, Chairman of the London and Birmingham; Captain Laws of the Manchester and Leeds Railway, and later of the Great Northern Railway; Captain Mark Huish of the Grand Junction, and later the L. and N.W.R.; Mr. Saunders of the Great Western; Mr. Edward Cardwell, M.P., a Director of the South Eastern, who was subsequently prominent in railway legislation, but is chiefly remembered for his work at the War Office; and Mr. William Galt, the author of "Railway Reform."

It is impossible here to deal at length with the Reports of the Committee, and the Parliamentary campaign that they produced. A volume might be written on the subject. We must be content with a brief account of the Bill which Gladstone introduced, and its mutilated offspring, the Act of 1844.<sup>2</sup> The

<sup>1</sup> Evidence, February 14 to 26, pp. 1-129. Mr. Laing was recalled for a further examination, p. 137. Cohn thinks it probable that Laing drafted Gladstone's Bill (I. 138).

<sup>2</sup> The original Bill, "prepared and brought in by Mr. Gladstone and Mr. Greene," June 20, 1844, is No. 397 in Public Bills, vol. iv., 1844. It is entitled "To attach certain conditions," etc., just as in

Bill was based on the Third Report of Gladstone's Committee, and was brought in on June 20, 1844, that is less than a month after the Fifth Report had appeared, and some time before the Committee issued their last (Sixth) Report. Gladstone was criticized for giving the House so little time ; one Member said that there had been no opportunity to read the Fifth Report, for they had been busy with the Bank Charter Bill, the Poor Law Bill, and other measures, in the weeks preceding the introduction of the Railways Bill.<sup>1</sup> Gladstone, in reply, pointed out that the Fifth Report did not concern the Bill ; this was true, but he left out of account the evidence which was only published with the Fifth Report. He showed, however, in his speech on the second reading, that he doubted the intention of members to study the question. "Do not be deluded," he said, "by that most shallow and miserable profession that before next Session we shall have time to get the Report by heart."<sup>2</sup> And he argued that the matter was urgent not only because the House would be very busy in the following Session, but also because "these powerful railway companies would become stronger by delay." He claimed that his Bill was closely in accordance with the recommendation of the Third Report of his Committee, and that the whole Press had expressed admiration for the moderate tone of that Report.

We can only quote a few passages from the document, but it deserves careful study. It is statesmanlike, though perhaps a trifle academic, in tone, and presents the best thought of the time on the problem of railway

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the final Act. The amended Bill, July 18, 1844, which is the Act, save for verbal alterations, is No. 511 in the above volume.

<sup>1</sup> Mr. Hawes in debate on second reading, Monday, July 8, 1844. See also *Railway Times*, June 29, 1844, p. 713 : "Unfair to bring on so large a measure at the termination of a wearisome Session. Even an ostrich could not rapidly digest the evidence of Gladstone's Railway Committee just published."

<sup>2</sup> Hansard, vol. 76, p. 508.

control and the relations of the railways to the State. It pointed out<sup>1</sup> that "the present moment, while Parliament still retains an entire and unimpaired discretion with regard both to the incorporation of new companies and to the enlargement of the powers of old ones, affords an opportunity more favourable than any that may be expected hereafter to recur, for attaching beforehand to the legislative sanction . . . the conditions which may be deemed necessary for the public good. . . . It would, however, be a narrow and unwise estimate of the public interests in this matter, which should regard them as exclusively opposed to, or even as distinct from, those of the Railway Companies. It is manifestly of great national importance to give countenance and aid to the investment of capital in Domestic Improvements, and the very complaint of monopoly . . . is an indication and a measure of the increased accommodation to the traffic of the country which railways have afforded, inasmuch as it has not been so much by force of Statutory Enactments granting to them special privileges, as by superior cheapness, security and rapidity of travel that their command of the intercourse of their districts has been acquired. . . ."

On the other hand, the Committee realized that the railway system would be extended greatly, and they argued that if Parliament had an interest in the extension, the public, feeling that they had an indirect interest in railways, would cease to view with jealousy "their almost exclusive command of traffic";<sup>2</sup> and further there would be more rational progress and less "undiscriminating multiplication of new lines." On this last point, competition in districts that were

<sup>1</sup> Third Report, p. 2.

<sup>2</sup> See evidence of Joseph Baxendale, chairman of S.E.R., Questions 3,449 and 3,473-3,476: "The public will cry out for competition until they injure railway property, unless some arrangement can be made."

already provided with railways, they spoke decidedly. "Competition was probably much more efficient as an instrument of injury to existing companies, than as a means of guaranteeing cheapness of travelling."<sup>1</sup> Nevertheless, "the power of encouraging or if need be of creating competition . . . is an engine of great capabilities in the hands of the State, and one which might be used to practical advantage in any case in which railways realizing very large profits should manifest a disposition to deal illiberally by the public." One further quotation, this time from the Fifth Report of the Committee,<sup>2</sup> may be added to show the statesmanlike moderation they displayed. New lines they said might be restricted as the Committee recommended, but could Parliament interfere with the established companies, which occupied the principal channels of the traffic of the country? There were great difficulties attaching to the question, but certain principles governing it were enunciated : "The good faith of Parliament with respect to privileges and powers already granted should be kept beyond all just suspicion ; one of the elements of encouragement to future undertakings is just and equitable dealings with those already established ; yet at the same time nothing in the nature of what is termed a vested interest (by which the Committee understand an interest and claim over and above positive enactments for some restraint of general principles in favour of the party) ought to be recognized by Parliament as attaching to existing railways."

It was chiefly this reluctance to impose any conditions upon existing railways that made the legislation of 1844 impracticable. But the problem was undoubtedly a difficult one, and the fairness of the Committee must be admired.

<sup>1</sup> See Laing's evidence, Questions 698 and 891. See also Glyn's evidence (Question 3,138), and Hudson : "Competition must lead to compromise" (Question 4,207).

<sup>2</sup> P. 10.

Their actual recommendations in the Third Report were stated in sixteen "Resolutions with regard to new Railways." Some of these dealt with the running of cheap trains, and that matter may be disposed of at once by saying that the Act of 1844 made the resolutions law. Moreover, they were made by the Act to apply to all passenger lines, not merely to new lines of railways, as the Committee had recommended; in fact, the only part of the Act of 1844, excepting the provisions for the carriage of troops and mails, which became effective, was this part that put aside the distinction between established companies and new ones. It provided that one train should run daily on every passenger line, for the conveyance of third-class passengers, with half a hundredweight allowance of luggage per passenger, at the rate of 1d. a mile.<sup>1</sup>

The first ten Resolutions of the Committee recommended that Parliament should impose the following conditions on any new railways :

1. If at the end of fifteen years the annual divisible profits upon the paid-up share capital equalled 10 per cent., the Government should have the option of revising the fares and charges, guaranteeing, however, to make up the profits to 10 per cent. if the revision reduced them below that point.

2. At the end of fifteen years the Government should have the option of purchasing any new line, "whatever be the amount of profits"; the Government terms would be twenty-five years' purchase of the annual divisible profit, calculated on the average of the three last preceding years.

These recommendations were carried by six votes to four when Gladstone's Committee were deliberating on their draft Report.<sup>2</sup> They were embodied in the

<sup>1</sup> 7 and 8 Vict., c. 85, sec. 6-10; Third Report of Gladstone's Committee, Resolutions 11, 12, 13.

<sup>2</sup> Fifth Report, p. 23; Proceedings of Committee (March 29, 1844), deliberating on Third Report, Resolution 2, *re Purchase and Revision*—Ayes 6, Noes 4. Gladstone did not vote.

original Bill he introduced, but he made one important addition which had not been discussed by his Committee.

The Committee's recommendations would have resulted in giving a company twenty-five times its annual profits, whether those profits were 5 or 50 per cent. Mr. Gladstone's Bill made 10 per cent. the maximum.<sup>1</sup> If a company's profits were over 10 per cent., the State would disregard the excess, and would in no case pay more than twenty-five times 10.

But when his Bill had run its course through the House, a very different arrangement finally resulted in the Act that was passed.

A new provision was inserted to the effect that if the profits were *below* 10 per cent. purchase terms should be arranged by arbitration. Only if they were above 10 per cent. would certain definite terms, fixed by the Act, come into operation; these terms were that purchase would be on the twenty-five years' basis, and the company purchased would reap the full benefit of high profits; if the profits were 20 per cent., then the purchase price would be  $20 \times 25$ ; if 50 per cent.,  $50 \times 25$ , and so on.

In other words, 10 per cent. which had been the summit in Gladstone's Bill became the base in the Act of 1844. Where the Bill had provided that in no case would more than twenty-five years' purchase of 10 per cent. be paid, the Act provided that if less than 10 per cent. was being earned, the transaction should be decided by arbitration, and would not be governed by the terms of the Act.<sup>2</sup>

It may be argued that the arrangement made by the

<sup>1</sup> Bills, Public, 1844, IV. (397), Clause 7: "Provided always that if the average rate of profit for the said three years shall exceed the rate of £10 in the £100, it shall be taken at only £10 for the purpose of calculating thereon the amount of such purchase money."

<sup>2</sup> The main provisions of the Bill and of the Act are compared in the Report on Amalgamation, 1872, p. 6.

Act was more fair than that contemplated by Gladstone's Committee or by his Bill. Let us take some examples under the three different schemes.

	Terms of Purchase of a Railway Earning—	
	3 per Cent.	15 per Cent.
According to Committee's resolutions (purchasable after 15 years)	$3 \times 25$ (£75 on £100)	$15 \times 25$ (£375 on £100)
According to Gladstone's Bill (purchasable after 15 years)	$3 \times 25$ (£75 on £100)	$10 \times 25$ (£250 on £100)
According to Gladstone's Act (purchasable after 21 years)	{ Arbitration	{ $15 \times 25$ (£375 on £100)

One may feel that none of the proposed terms was ideal. Surely the most equitable scheme would have been a combination of profits and capital? To this it will be answered: "That is what the Act effected by introducing arbitration." No doubt arbitrators, in settling the price of a railway that, for example, earned only 2 per cent. on the average of its nineteenth, twentieth, and twenty-first years, would make due allowance for the return to capital which might ultimately be expected. The arbitration principle was a right one, but it should never have been coupled with the twenty-five years' purchase terms for 10 per cent. companies. Arbitration terms for all companies without distinction, or else for really poor companies only, would have been a better arrangement. In 1844 there were, Mr. Bright stated in the House of Commons, only four companies paying 10 per cent.; one paid 7 per cent., two paid  $6\frac{1}{2}$  per cent., four paid 5 per cent., and the remaining fifty-nine from 4 per cent. down to nothing.<sup>1</sup> It was unnecessary to make definite terms for

<sup>1</sup> Hansard, vol. 76, p. 630.

the few companies earning 10 per cent. and over, and for no others. And further it was mischievously misleading, for as it stood the Act suggested that railway enterprise might expect to be reaping 10 per cent. in twenty years' time, and that smaller profits would be the exception, not the rule.<sup>1</sup>

It is well known that the purchase and revision sections of the Act have been ineffective, and the reasons are not difficult to find. In the first place, the Act excluded all the railways sanctioned before the Session of 1844—that is to say, 2,300 miles of railway.<sup>2</sup> The main trunk system (excluding the Great Northern Railway) of the country was outside the Act, and could only be purchased by agreement. It was probably realized at the time that this would be a difficulty. We have seen, however, the sanctity which Peel attached to existing companies, and the reluctance to interfere with them which was felt by Gladstone's Committee.

Secondly, there was the difficulty of accounts. Morrison wrote very strongly of the folly of taking an option to purchase or revise charges at 10 per cent. without establishing a systematic control over the method by which profits were calculated.<sup>3</sup> The Royal Commission of 1867 pointed out the difficulty of framing accounts which would distinguish receipts, etc., on branches which the State might purchase, from those on main lines which were outside the Act.

<sup>1</sup> See Morrison's criticism ("The Influence of English Railway Legislation on Trade and Industry," pp. 21, 22). He considers that the speculating public were led by the Act to think that railways had "something like a Parliamentary guarantee" of 10 per cent.

<sup>2</sup> A table showing the pre-1844 railways is given in the Report of Royal Commission, 1867, p. 33, and the discussion of the Act given there and on p. 10 is full and satisfactory. The Commission gave much attention to the subject, because the twenty-one years of the Act had just expired.

<sup>3</sup> *Op. cit.*, pp. 21-23. Morrison's unsuccessful Railway Bill of 1836 (above, p. 67) had provided for compulsory returns by the railway companies to the Board of Trade (Clauses 3 and 4).

Thirdly, the operation would probably have been unsatisfactory under the piecemeal arrangement made by the Act. After the twenty-first year had expired the State would not have an option to purchase all new railways, but only those sanctioned in 1844 ; "in every succeeding year it would be entitled to take so much of the existing railways as was authorized in the twenty-first preceding year."<sup>1</sup>

Nevertheless, we are inclined to think that Gladstone could have made something of the Act had it been passed in the form which he originally proposed.

Everything that he said on the question showed his undoubted intention to deal fairly with the railways, and had he not lost all interest in the question after his practical defeat in 1844, he would probably have convinced the companies that they could trust him, and so have made them quite ready to discuss the purchase of the companies established before 1844. Moreover, he would have worked the revision powers together with the purchase powers. Revision would only have been a preliminary to purchase, and a company which was making a *bona fide* 10 per cent. would always be a more satisfactory purchase than a less remunerative one. There would have been no question of the Government revising rates and then continuing for a number of years to subsidize the company ; it would have been purchased. Moreover, the mere fact that the Government was seriously contemplating its option and watching the success of the railways, would have had a profound effect upon the extension of the railway system. Parliament would have refrained from recklessly sanctioning every possible scheme that was presented. A comprehensive view of the whole system of railway communications would have been taken had Parliament known that it might ultimately take over the whole system. And it is not unreason-

<sup>1</sup> Royal Commission, 1867, Report, p. 34. See also p. 216 below.

able to suppose that Gladstone might have persuaded the House to take this view, during his many years of power after 1844, if he had continued to take a vigorous interest in the railway question.

But to leave these conjectures and come back to fact, this is the verdict of the inquiry of 1872 on the purchase question : "Whatever value there may be in the notice given to the companies by the Act of 1844, of their liability to compulsory purchase by the State, its terms do not appear suited to the present condition of railway property, or likely to be adopted by Parliament in case it intends, at any future time, to purchase the railways."<sup>1</sup>

The Act, however, was not entirely inoperative. The provisions for the carriage of troops and mails at special rates, and for cheap trains in the interests of the poorer classes, were fully operative. They were, perhaps, an advantage to the railways ; on the one hand, the Act helped to teach them the value of third-class traffic, and on the other, they probably did not lose over the carriage of mails or troops.

But, nevertheless, the matter was problematical in 1844 ; no one could be certain, then, that these provisions would prove harmless to the railways, and the mere fact that they have carried this special Government traffic and have run the "Parliamentary" trains since 1844, whether at a loss or a profit, suggests that there was something in the nature of a consideration involved in the Act, some idea of fair give-and-take between the railways and the State.

For that reason one must deprecate the loose and unconstitutional manner in which the Act is spoken of at the present day. One readily concedes that the purchase clauses have been ineffective, that they were ill-conceived, that the 10 per cent. basis which they are taken to imply would be excessive for a modern

<sup>1</sup> Report, 1872, p. 7.

purchase operation. But when all that has been said, it still remains true that these terms are embodied in an Act of Parliament, which is by no means entirely a dead-letter, and which alone governs the question of State purchase. Until it is repealed, the railway proprietor is strictly within his rights in refusing to discuss what is reasonable or unreasonable, and in pointing to the Act of 1844—that is, to arbitration—as the embodiment of the State's terms of purchase.

One other point may be noticed. The provisions of the Act for revision of rates and charges have likewise been inoperative, and for good reason. The Treasury, which in the Act replaced the Board of Trade as the Department charged with putting the provisions for purchase or revision into force, would have had to guarantee a continuation of 10 per cent. so long as the revised rates and charges were in force. No railway could have wished for a happier lot than revision on terms that safeguarded it against risk if it wished to make experiments in rate reductions. The Treasury, on the other hand, would have run a grave risk, and if its calculations proved in error, would have had to subsidize the railway.

Gladstone's Bill made many provisions for interference by the Board of Trade in the affairs of a railway, the rates and charges of which had been revised ; the Board might make reductions if the affairs of the railway were ill managed;<sup>1</sup> it might vary the revised scale of charges;<sup>2</sup> it might regulate the methods of accounting;<sup>3</sup> still more drastic, it might "make such regulation for carrying on the traffic as shall appear to the Board to be required for the public convenience, and necessary for securing to the public the full benefit of such revised scale."<sup>4</sup> These provisions would practically have taken the management out of the hands of

<sup>1</sup> Bill, Clauses 2 and 9.

<sup>3</sup> Clauses 11 and 13.

<sup>2</sup> Clause 4.

<sup>4</sup> Clause 6.

the railway officials in the case of a company of which the rates and charges had been revised, and put it in the hands of the Board of Trade. The Act swept all these clauses away,<sup>1</sup> and laid stress, in a new provision,<sup>2</sup> on Parliament's intention that "the policy of revision or purchase should in no manner be prejudged"; there was to be no revision or purchase without a fresh Act authorizing it and determining the details.

Nevertheless, the Act definitely enacted that the option of revision only accrued if the profits of a company equalled 10 per cent., and the good faith of Parliament would have been more evident if the revision terms of 1844 had been repealed before Parliament interfered between 1888 and 1894 to reduce the rates of companies which would have been glad to earn profits even of 5 per cent.

Gladstone's Act fills a large place in English railway history, because it is the most direct attempt that has been made to give the State a share in railway working. From what has been said, it is probably clear that, if Gladstone's intentions, as expressed in his Bill, had been made law, the State would have had far greater practical power. Moreover, the Act might then have been workable and effective, for Gladstone would have maintained an interest in the question, and during his many years of office after 1844 might have grappled with the railway problem. Amalgamation would then have ceased to be the central unifying force; consolidation in the hands of the State would have replaced it.

As it was, Gladstone dropped railways after 1844. Some examination of the debates in Parliament in that year will serve at once to show the opposition his Bill received, and explain why it was so much altered, and will also suggest that his experience at the time per-

<sup>1</sup> The reduction of the forty-eight clauses of the Bill to the twenty-four sections of the Act was mainly effected in this way.

<sup>2</sup> Act, Section 4.

suaded him that railway reforms were too difficult and disappointing a task for him to attempt again.

There is a very great contrast between his speech on the second reading of the Bill on July 8, and his speech when the Bill went into Committee on July 22. The former was bold, uncompromising, and severely critical of the railway interest. The latter was yielding, complaisant, and weak. The former was made with reference to his original Bill, and that Bill was read a second time, 186 votes favouring it and 98 opposing.<sup>1</sup> Then the Bill was amended—reduced by half—and Gladstone tamely explained the matter as if he had favoured the slaughter. The fight was over—practically he had capitulated.

It is a little difficult to understand the change in Gladstone's attitude. At first sight it would appear that since he was able to carry his original Bill through its second reading by a large majority, he should have clung to it and forced it through Committee. Cohn, however, solves the difficulty by showing that Gladstone went further than the Prime Minister intended, and suggesting that while Gladstone was hurling defiance at the railway interest, Peel was conciliating them, and persuading them to vote for the second reading, on the understanding that the Bill should be modified subsequently.<sup>2</sup>

It is worth while attempting to paraphrase Cohn's interesting characterization of Peel. He contrasts<sup>3</sup> the warmth and statesmanlike decision of Gladstone in the face of a powerful opposition with the formal attitude of the Prime Minister. "Peel was firm in defiance of

<sup>1</sup> Hansard, vol. 81, July 11, 1844, p. 683. Mr. Wallace took objection to Mr. Russell's vote on account of his interest as a shareholder and chairman of the G.W.R., but the objection was withdrawn.

<sup>2</sup> Cohn 1, pp. 108-110, 164, 165. See also p. 148 for the consideration shown to the railway interests, also for his criticism of the Bill, "founded on the half medieval, half Manchester principle" of refraining from interference with established laws and undertakings.

<sup>3</sup> Cohn 1, p. 108. It is impossible to translate the German closely, but it is hoped that the paraphrase given reproduces Cohn's meaning.

the opposition, and was anxious to introduce new measures—but always from the economic point of view of the Manchester school. In the end, despite his domineering tone in Parliament, he yielded to the protests of the opposition and was more vanquished than victor. And the essence of the matter is that the man who had to make the greatest effort of statecraft in order to secure, by the Repeal of the Corn Laws, the very groundwork of economic Egoismus, was so absorbed in the principles of the struggle, that he could not at the same time appreciate measures which appeared to transgress those principles."

As to the actual debate on the second reading, we may first give an example of the opposition by quoting from John Bright's speech. The most important part of the Bill, he said, however much Gladstone might try to disguise it, was State purchase. It was "altogether a new principle in this country. Private enterprise had done much more for the country than the Government had ever done." Then followed a statement which is worth preserving as a gem of Manchesterism. "There was a wholesome absence of interference in this country in all those matters, which experience showed might wisely be left to private individuals, stimulated by the love of gain, and *the desire to administer to the wants and comforts of their fellow-men.*"

Bright protested against Peel's repeated charge of monopoly and against the unfairness of casting a slur on railway proprietors, because they opposed the Bill. There was nothing to compare with the excellence of railway arrangements ; the Government packet ships and postal arrangements were very inferior. As to third-class trains, "no man more than himself wished that the working-classes should have every accommodation on railways, but, in his opinion, to no class did the railways give more facilities of travelling than the working-classes."<sup>1</sup>

<sup>1</sup> Bright's speech, Hansard, vol. 76, pp. 626-634.

This was a typical piece of opposition of the blind, ignorantly lofty, but well-meaning Manchester school. One must make allowances for it by remembering that its advocates were strenuously employing their *laissez-faire* arguments at this very time, to demolish many unjustifiable restrictions on commerce. And they could not easily abandon those arguments, and agree that restrictions upon railways were necessary.

A less principled opposition was carried on by the railway journals ; one of them spoke of the "Railway Plunder Bill," and made comparisons with the French Revolution.<sup>1</sup> It further alleged that the Government knew the Bill was subversive of railway property and quite unwarranted, but hoped to succeed in their plunder experiment by the votes of a "combined phalanx of placemen."<sup>2</sup>

Gladstone's speech on the second reading dealt mercilessly with all opposition, while at the same time answering all the complaints that had been made against the Bill. It was a brilliant and daring piece of oratory.

He said there had been much misrepresentation of various measures during the Session, but more gross mis-statements and misrepresentations had not been made than those with reference to this Bill. It was a Government Bill ; had the Board of Trade shown any hostility to railways ? Had he not been anxious to have four railway directors on his Committee ? He reminded the House that no purchase or revision could be made without money voted by Parliament ; the option was left in Parliament's hands, not in those of a Government Department. Why should they fear that Parliament would harm the railways ? "He apprehended he was addressing a majority of railway proprietors ;" his own family were extensively interested

<sup>1</sup> *Railway Times*, June 29, 1844, p. 713.

<sup>2</sup> *Ibid.*, July 6, p. 737. In the following number (July 13, p. 761) there is a rather unhappy reference to the "phalanx" of railway companies opposing the Bill.

in railways. Many weaker interests than those of railways reposed in security. Was it likely that Parliament would ruin the railways, which had, perhaps, the strongest interest in regard to direct influence upon the votes of members?

Then he turned to the opposition. He said it was not general. The petitions presented by the companies were not generally agreed to by all the shareholders.

The companies' argument was "trust to competition." "He would rather give his confidence to a Gracchus when speaking on the subject of sedition, than to a railway director when speaking to the public of the effects of competition."<sup>1</sup>

But there was a deeper power in the opposition. He referred to the Parliamentary agents and solicitors. They were the parties who knew how to get up an opposition in the House; "they could talk aloud of the public interest, and draw up petitions, in which while they steered clear of direct untruth, they made statements wide of the fact."<sup>2</sup>

The opposition, he declared, had only convinced him of the necessity for the Bill.

Then, concluding, he said : "I shrunk from a contest with railway companies. . . . I knew their power in the House and was satisfied that with justice on their side, they would be perfectly resistless; but, being persuaded that justice is against them . . . I do not shrink from the contest. I contend that this measure, so far from being a measure of violence . . . is characterized by the utmost temperance and moderation, and feeling that we have right and justice on our side, I say that, although the railway companies are powerful, I do not think they have mounted so high, or that Parliament has yet sunk so low, as that at their bidding you shall refuse your sanction to this Bill."<sup>3</sup>

<sup>1</sup> Hansard, vol. 76, p. 500.

<sup>2</sup> *Ibid.*, p. 502.

<sup>3</sup> *Ibid.*, pp. 508, 509. "The Right Hon. gentleman concluded, amidst loud cheering, by moving that the Bill be now read a second time."

These strong words were somewhat weakened when, after the debate and division, Gladstone said he was ready to consider modifications which would tend to make the Bill conform to the Third Report of his Committee. He had previously declared that the Bill was framed on that Report, so this concession should not have been necessary. Peel followed Gladstone by stating his intention of making alterations in strict accordance with the Third Report.<sup>1</sup>

Then, on July 22, in a very different spirit, Gladstone rose in Committee to explain the alterations.<sup>2</sup> The Bill, he said, had been reduced by half, by omitting clauses that contained "executory provisions and provisions of detail." These had originally been inserted to satisfy railway proprietors. But "a body of gentlemen connected with railways had taken a different view. They had represented to the Government that its profession was that the policy of option was to be altogether reserved; if so, they argued, why specify details at present?" There was much weight in this, and he had at once agreed to it.

He then said that the right of option now accrued at the end of twenty-one years, not fifteen years; "a material relaxation," but he defended it on the ground that his Committee had been anxious not to indicate positively any definite number of years. This statement "steered clear of direct untruth, but was wide of the fact," to quote Gladstone's words of the Parliamentary agents; for when his Committee had been deliberating on their Third Report, Mr. Gisborne had proposed that the words "term of years be fifteen," in the fourth resolution should be altered to "be twenty." Mr. Russell alone had supported Mr. Gisborne in this amendment, and nine members of the Committee had voted against it.<sup>3</sup>

<sup>1</sup> Hansard, vol. 76, p. 683.

<sup>2</sup> *Ibid.*, p. 1186.

<sup>3</sup> Proceedings of Committee, Fifth Report, p. 23.

Nevertheless, Gladstone now defended the change—"actuated as he was by the strongest desire to give no shock to the formation of new railways, he thought it a safe and wise relaxation to extend the terms of accrue-ment from fifteen to twenty-one years."<sup>1</sup>

As to the alteration in the terms of purchase, he did not suggest that it would have been wiser to abandon the 10 per cent. idea altogether, and introduce arbitration in all cases of purchase, but he simply stated that "railways would now be purchased at their real value, whatever that might be; . . . this stipulation was an improvement in every respect." . . . In conclusion, he said, the "Bill might now be termed an Act for reserving the discretion of the Legislature." The House hardly offered a comment; the Bill was now presumably harmless enough, and it made a safe progress through the remaining stages of procedure, receiving the Royal Assent on August 9; it was not discussed further in the Commons, and in the Lords there was only a short debate, mainly on the question of Sunday travelling.

We must, however, give some account of the railway opposition which had caused Gladstone to make such radical alterations in his Bill. Towards the end of June a deputation representing twenty-nine railway companies, with capital amounting to £50,000,000, was received by Peel, Gladstone, and Lord Granville Somerset. Hudson, Glyn, Chaplin, Sanders, Russell, and other members of the deputation had spoken urging the postponement of the Bill, but the Ministers had declined to do this.<sup>2</sup> As we have seen, it was after this—on July 8—that Gladstone made his powerful speech on the second reading of the original Bill.<sup>3</sup>

<sup>1</sup> Hansard, vol. 76, p. 1188.

<sup>2</sup> *Railway Times*, July 6, 1844, pp. 729 and 737.

<sup>3</sup> In his speech Gladstone described the deputation as "a most lugubrious body; . . . in the front were directors, in the rear great multitudes of railway solicitors" (Hansard, July 8, p. 506).

The deputation, however, drew up a memorandum against the Bill which was widely circulated among railway shareholders and members of Parliament. This had probably produced its effect by July 8, and Gladstone's ultimate surrender was ensured, though he might hurl defiance at the railway interest in his speech.

The memorandum drawn up by the deputation was a very cogent document.<sup>1</sup> It stated that the grounds for the Bill were four :

1. Railways are monopolies.

2 and 3. They exact too high fares, as is shown by a comparison with foreign railways.

4. They would be better and cheaper run by a Government Department.

These four points are examined in detail and severely criticized. The monopoly argument was met by the argument that the Legislature was always ready to sanction a second competing railway if advantageous to the public. The amalgamation of the two was not contemplated ; amalgamation was not yet common. Cardwell was rather anticipating what would happen when, speaking in favour of Gladstone's Bill, he asked whether the "ultima ratio of competition" applied to railways, and stated that no sooner was a new railway made, competing with an old one, than the two lines combined.<sup>2</sup>

As to the second and third points, the memorandum took the line that dividends were the most conclusive answer to the complaint of high fares. It had been stated in Gladstone's Third Report that "in this country what is called the high-fare system ordinarily prevails."<sup>3</sup> This had been discussed by Mr. Samuel Laing in a

<sup>1</sup> It is given by the *Railway Times*, July 6, 1844, p. 727 : "Memorandum on the Government Railway Bill," drawn up under authority of the delegates of the various railway companies. It is clearly the work of a single writer, as is shown by the words "I fear" in the second section of the memorandum.

<sup>2</sup> Hansard, July 8, 1844, p. 524.

<sup>3</sup> Third Report, p. 3.

very interesting statistical Report appended to the Reports of Gladstone's Committee, in which comparisons were made between English and foreign railways, and the general effects of high and low fares were ably reviewed.<sup>1</sup>

The memorandum pointed out that only £17,000,000 of railway capital paid over 5 per cent., and that Laing's statistics omitted twenty railways which were paying very small dividends. Laing's figures for foreign railways were then commented upon, and many objections taken to them.

Coming to the last point, the memorandum stated that there was no criterion for Government construction of railways in England, but some very effective arguments against State action were found in the case of canals. Two Irish canals, made with public funds, were referred to as "canals for public money, not for trade." After this the memorandum dealt with the chief points in Gladstone's Bill. Why were railways alone to have their charges revised? The Oxford Canal paid 30 per cent., the Leeds 34 per cent., the Loughborough 70 per cent., the Monkland 150 per cent. Similarly, with regard to purchase it was argued that if the proposed policy had been introduced a generation earlier, if the Government had owned the Liverpool and Manchester Canal, railway enterprise would have been opposed as injurious to public revenue. Competition, in fact, would be killed by the Government Bill. If a railway were given a Government guarantee of dividend, would it exert itself?

Many other arguments were put forward: centralization was not an English principle; the great towns would not readily give up the control of their own concerns; they would resent the rule of an inaccessible Board in London. Finally, English enterprise rested

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<sup>1</sup> Appendix 2 (Report to Lords of Committee of Privy Council for Trade on statistics of British and Foreign Railways, January 10, 1844).

on the sense of security. The rates specified in the Act incorporating a railway company were an estate which the capitalist had purchased and paid for ; his stocks and shares, just like his landed property, belonged to him, "not only in their present state, but in any improved state at which they might arrive hereafter."

All this, no doubt, made a powerful popular appeal against Gladstone's Bill. No doubt it was this opposition that compelled him to amend the Bill so that it became practically valueless as a means of purchasing the railways. It is an interesting chapter in railway history, though chiefly a record of failure. The Act remained,—an obstacle in the way of further attempts at purchase, and a warning to enthusiasts who contemplated nationalization. Had the field been clear, some large comprehensive measure might have been attempted in subsequent years with more success. But no second attempt was made. After 1844 Parliamentary control took the form of smaller measures to check the anticipated railway monopoly. The idea of transferring the monopoly to the hands of the State was abandoned. The work of consolidation was carried on by the railway companies ; the State confined itself to devising an indirect control over them.

## CHAPTER VI

### ATTEMPTS TO ESTABLISH A CONTROLLING DEPARTMENT: DALHOUSIE'S BOARD, AND THE RAILWAY COMMISSIONERS OF 1846

IN 1846, the great year of railway amalgamation and of railway promotion in general, Parliament attempted to establish a permanent controlling body for railway matters, in accordance with accumulations of resolutions to that effect from various committees of inquiry. We propose in this chapter to deal with the reports of some of these committees and their outcome.

Whatever doubts Parliament may have had as to the wisdom of allowing railway promotion to proceed so rapidly, it was too late to stop the movement when the Bills of 1846 were pouring in upon the Houses. The number of Bills had been thought "unprecedented and unmanageable in 1844, and members of Parliament had been ready to thank their stars that such a state of things could not continue"; but speculation increased, and with it the deluge of railway schemes in 1846.<sup>1</sup>

The practical question was how to get through the Bills, and make the situation "manageable."

Special arrangements were made for "facilitating the dispatch of railway business," in accordance with the recommendations of a Select Committee of February,

<sup>1</sup> Lord Dalhousie's speech in House of Lords, April 7, 1846 (Hansard, vol. 85, p. 652).

1846.<sup>1</sup> The Committee suggested various means of accelerating procedure, and preventing delay in the reading of Bills. They thought the Irish Bills in particular should be hurried on, in order to give employment in that distressed country; such Bills should originate in the House of Lords. They planned a classification committee, which should group the various Bills, and, allowing for many failures from non-compliance with standing orders, they calculated that it was possible to get through all the Bills, though it would put great pressure upon members.

The Classification Committee<sup>2</sup> appointed by the House published no less than twenty-five Reports between February and August, grouping and regrouping the various railway schemes, and facilitating the work of the Private Bill Committees which examined them. Standing orders proved fatal to a number of the Bills. Lord Dalhousie complained that the Standing Orders Committee, so far from reducing the number considerably, "had breathed upon them as gently as a zephyr";<sup>3</sup> but in the House of Commons, Hudson stated, and Sir George Clerk confirmed the statement,<sup>4</sup> that out of the 800 schemes originally put forward, only 440 had complied with the requirements of the Legislature as regards deposits and other essential preliminaries. Probably the whole collection had been drafted with undue haste, and Dalhousie's words implied that there were many faulty Bills remaining, even though nearly one-half of them had perished.

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<sup>1</sup> Select Committee on Railway Bills, appointed January 26, 1846; issued three short reports on February 5, 10, and 17 (Reports, 1846, XIII.).

<sup>2</sup> Select Committee appointed for the Classification of Railway Bills; 25 short reports (lists of Bills). (Reports, 1846, XIII.)

<sup>3</sup> Hansard, vol. 85, p. 867, April 23, 1846.

<sup>4</sup> The actual figures for the Session were given at its conclusion by the *Railway Times* (September 26, 1846, p. 1402); 516 Bills were introduced—81 were thrown out on standing orders, 83 were withdrawn, 91 were lost in committee, 15 were rejected in the Lords, 246 received Royal Assent.

The amalgamation Bills of the year were the subject of a special inquiry, but a disappointing one. Mr. Wilson Patten, a member who was long prominent in railway questions in the House,<sup>1</sup> called attention to these Bills on March 9. He was answered by Sir G. Clerk,<sup>2</sup> who held that nothing could be said on the subject of amalgamation which had not been said by the Board of Trade in a Report of the previous year; the Report embodied all the principles which could be laid down for the guidance of the Legislature. The Report is discussed later in this chapter.<sup>3</sup>

However, Wilson Patten moved for a committee to inquire into amalgamation. He spoke in a friendly way of the railway companies, and approved of the general principle of amalgamation, but considered the existing situation an exceptional one. There were thirty-three amalgamation Bills before the House; they covered the country from end to end; they must be watched, and information on them must be gathered from the districts affected. It was true the House had some information, "which it had most sadly neglected and not treated with the deference it deserved"—he referred to the Board of Trade Report.

Sir G. Clerk in reply once more took the view that this Report was the last word on the subject, and Sir

<sup>1</sup> John Wilson Patten, Esq., M.P., is named as a landowner in Warrington, in the schedule of the Grand Junction Railway Act of Incorporation (3 William IV., XXXIV.). He was born in 1802, entered Parliament in 1832, was removed to the House of Lords as Baron Winmerleigh in 1874, and died in 1892. He is often described as Colonel Wilson Patten; as Colonel of volunteers he went to Gibraltar, during the Crimean War. His last speech in the House of Lords (1882) was in warm advocacy of the Manchester Ship Canal. He had sat from 1832 to 1874 for the new division of North Lancashire created by the Reform Act. His long career as a Conservative was marked by his constant advocacy of reforms (Dictionary of National Biography: "Wilson-Patten").

<sup>2</sup> Hansard, March 9, 1846, p. 780. When Gladstone resigned in 1845, Lord Dalhousie became President of the Board of Trade, and Sir G. Clerk Vice-President.

<sup>3</sup> P. 131 below.

Robert Peel also pointed to the Report, and defended the Government against the charge of having "neglected the great subject of railway legislation"; the House was to blame for not accepting the Board of Trade's advice. "They were actually jealous of the interference of the Government" (*i.e.*, the Board of Trade).<sup>1</sup> It is questionable, however, whether Peel had made any great effort to secure the adoption of the Board's advice.

In the end, Wilson Patten was persuaded to amend his motion so that it only referred to the actual amalgamation Bills of the Session, and not to the whole principle of amalgamation; a Committee (Morrison's),<sup>2</sup> with general powers of inquiry, had just previously been appointed, and it was considered advisable to limit Wilson Patten's Committee, so that it should not conflict with the other.

The Amalgamation Committee which was appointed consisted of seven members, including Sir George Clerk and Mr. Wilson Patten. Gladstone, who would probably have been added to the Committee, was not in the House. He had resigned the Presidency of the Board of Trade in January, 1845, ostensibly on the Maynooth question, though this reason was considered inadequate. Peel had resigned in December, 1845, over the Corn Law question, but he resumed office in the same month, and Gladstone then returned to office as Colonial Secretary. His appointment vacated his seat for Newark, a Protectionist constituency; and he did not seek re-election, but remained throughout the stirring Session of 1846 a Secretary of State and a Cabinet Minister without a seat in Parliament.<sup>3</sup>

<sup>1</sup> Labouchere also favoured the Board of Trade: "They could not have a safer guide."

<sup>2</sup> Below, p. 143.

<sup>3</sup> Gladstone re-entered Parliament in the summer of 1847, as member for Oxford.

Wilson Patten took the chair, and the Committee quickly heard what evidence they required, and issued two short reports, the second of which dealt mainly with the absorption of canals by railway companies. The Committee were none of them railway representatives, nor were the witnesses they called; the latter represented carriers and canal companies and the Board of Trade.<sup>1</sup>

They made some interesting remarks in their First Report, but one is chiefly impressed with the futility of the whole business; while this Committee was urging mature consideration of Railway Bills, while a Select Committee of the House of Lords was considering the "best means of discouraging schemes got up for the mere purpose of speculation," while Morrison's Committee, like the others, but in more determined words, was insisting upon the need for a permanent department to supervise railway matters, decisive Bills were being passed without a suggestion of mature consideration, the speculative mania was past its zenith, and the railway system was arranging itself without the supervision of a Department, and in a manner that would leave little scope for re-arrangement if the Department ever were set up. It was futile, and perhaps also tragic.

This is what Wilson Patten's Committee reported. There were thirty-seven Railway Amalgamation Bills before Parliament, and also thirty-two Bills for the amalgamation of canals with railways. Besides these there were 155 other Bills for amalgamating new companies. As some of these Bills were already advancing in Parliament, the Committee had hurried on with their deliberations. They found a general tendency towards the extension of railway operations. They

<sup>1</sup> Select Committee on Railways and Canals Amalgamation (Reports of Committees, 1846, vol. xiii.). The first Report of April 8 (No. 200) covers four pages, the second of May 6 (No. 275), three pages. Evidence and Index, 116 pages.

were not “disposed to regard with undue jealousy the principle of amalgamation.” Its benefits were indisputable. But it must be properly limited and controlled. “At the present time, owing in some instances to a system of low fares being found most profitable, in others to actual or threatened competition, the maximum rates or tolls have not been generally required as a limitation;” but when companies amalgamated, the competitive reason for low charges would cease to operate. The Committee, therefore, recommended that the rates and tolls of amalgamated companies should be subject to revision. They had found, however, “that some important lines of railway . . . with respect to which no legislative amalgamation has yet been proposed, are at present practically under the same control and management.” These private arrangements between companies could not be permanent without Parliamentary sanction, but the Committee were alarmed about them, because they enabled companies to escape the provisions which Parliament might think fit to impose for the benefit of the public as a condition of amalgamation.

The Committee did not take any very satisfactory evidence on this question.<sup>1</sup> Perhaps they had George Hudson in mind, and needed no further proof; in his hands many railways were subject to the control and management of one chairman, though legally they were separate concerns. They stated their conviction that “the only effectual mode of obviating the evils which might arise from an abuse of power derived from such private arrangements would be found in the constitu-

<sup>1</sup> Donatus O’Brien, of the Board of Trade, spoke strongly, but in general terms, of private agreements, their obnoxious nature and their illegality (Question 268). But he also said that the public need not be inconvenienced by them (Question 178), and he suggested a safeguard when he told the committee (Question 271) that the parties as a rule quarrelled, and then other companies with similar agreements took warning and came to Parliament.

tion of some Department of the executive Government to supervise railways and canals."<sup>1</sup>

For the rest their recommendations simply consisted in laying stress upon the Board of Trade Report of 1845, an extract from which they quoted. There is a similarity about this Board of Trade Report and one made by Laing in 1844; we may discuss them together.<sup>2</sup> Laing had pointed to the "rapid progress of amalgamation." He gave as examples the Midland, the North Union, the Grand Junction, and other companies. He anticipated that ultimately "the principal railway communications of the kingdom will be parcelled out into six or eight great systems." The public would gain in many ways, but there would be less likelihood of reductions of fares. "Unquestionably, the consolidation of so many independent railway interests . . . must be looked upon as a final abandonment of the principle of competition as a safeguard for the interests of the public." There would, he allowed, be some competition on the frontiers of the great railway systems, but it would only be a waste of money. Agreements would be made between the companies. "Amalgamation therefore cannot be looked upon otherwise than as a full and final sanction of the principle of monopoly, and while under proper regulations it may be a beneficial, as, indeed, it appears an inevitable movement, it clearly requires careful consideration."

The Board of Trade Report of 1845 went little further than Laing had done in its general recommendations, but as we shall see later, the Board attempted to put its views into practice, advising

<sup>1</sup> This recommendation was made at the end of the Committee's Second Report, p. 5, after they had dealt with canals. They found that the danger of private arrangements being made applied to canals as well as to railways. See evidence of Mr. Scott, Questions 565, 597.

<sup>2</sup> Laing's Report to the Board of Trade is attached to the Fifth Report of Gladstone's Committee of 1844 (Appendix II., p. 21). The Report of 1845 is given in Accounts and Papers, 1845, XXXIX. (279).

Parliament to refuse certain amalgamations, and Parliament differed. The gist of the Report was that "amalgamations of continuous lines may be justifiable under proper guarantees and conditions. But amalgamation as a defensive measure, to ward off legitimate competition or to prevent new and useful projects being brought forward, should not be allowed. And even where schemes are not evidently adverse to public interest, it would generally be more prudent to pause, in the present fluctuating state of affairs, before uniting companies whose relations might be entirely changed in a few months." This was extremely wise advice, and Wilson Patten's Committee were right in "pressing it earnestly on the consideration of members." Had members been free to devote time to railway affairs, it would not have been too late even then, early in April, 1846, to adopt the advice and apply it to the Amalgamation Bills of the Session. No harm would have been done if railway promotion had been delayed for a time. But Parliament was already overburdened with other business, and careful consideration of railway affairs was out of the question. The House might have hung up all the Railway Bills until it had more leisure to deal with them. That would have been very unpopular at a time when the country was enthusiastic about railway promotion. Parliament did a popular thing in rushing the Bills through as best it could.

Nor was the recommendation of Wilson Patten's Committee for the establishment of a Railway Department immediately adopted. It was only after it had been earnestly supported by other committees that late in the Session an Act was passed for constituting Railway Commissioners.<sup>1</sup> We must discuss this at some length, but before we can do so we must first go back to 1844, and describe a body that was experimentally set up in that year—namely, Lord Dalhousie's Board

<sup>1</sup> P. 148, below.

of 1844 and 1845, which was a Railway Department within the Board of Trade, and which is closely related to, and frequently confused with, the Railway Commissioners of 1846 to 1851, who were independent.<sup>1</sup>

We have seen that under the Acts of 1840 and 1842 the Board of Trade were given certain powers over railways. Hadley<sup>2</sup> has compared these with the powers of the Massachusetts Railroad Commission, an advisory body which is generally considered to have done excellent work.<sup>3</sup> He points out that the Board of Trade was well fitted to exercise the powers, and had done so for years past in connection with shipping, "but the Board failed where the Massachusetts Commission succeeded, not because of a difference in the law, but because the English public sentiment with regard to railroads was not sufficiently active to give such a body the necessary moral support to make up for lack of legal authority."

In 1844, however, the railway branch of the Board of Trade was re-organized; to the existing officers, superintendent, inspector-general, and secretary, an assistant inspector and another secretary were added; and these, presided over by the President or Vice-President of the Board of Trade, "constituted the new

<sup>1</sup> Some remarkable mistakes were made in the evidence taken by the Select Committee on Railways (Rates and Fares), 1882. Mr. Littler, Q.C., gave the committee a sketch of railway history, and said (Question 3,659): "There was a Railway Commission, composed entirely of laymen. They commenced in 1847 and terminated in 1853, being allowed to expire." (He could hardly have made more errors. One of the Commissioners, Sir Edward Ryan, was a lawyer; both dates are wrong, and the Commissioners, not having been appointed for a term of years, could not expire, but had to be abolished by Act.) The Committee let this pass until some days later, when Sir Frederick Peel, himself Chairman of the Railway Commission of that time, tried to put matters right by saying Littler must mean Lord Dalhousie's Commission of 1846-51! (Questions 4,023-24.)

<sup>2</sup> "Railroad Transportation," chap. ix., p. 171.

<sup>3</sup> See Mr. Acworth's address to the British Association, Dublin, September, 1908 (*Railway Gazette*, October 2, 1908, p. 390).

Railway Department of the Board of Trade."<sup>1</sup> This change was made in accordance with recommendations in the Fifth Report of Gladstone's Committee of 1844, in which an elaborate examination was made into "the degree of supervision which it may be right that a Department of Government should exercise over future railway schemes in their earlier stages." The Committee recommended that Railway Bills should be submitted to the Board of Trade before they came under the notice of Parliament, in order that the Board might examine them with regard to such questions as public safety, "provisions of magnitude which might be novel in principle—for example, amalgamations and agreements between separate companies," and other questions.

The new distinct Board for railway matters was established within the Board of Trade on August 6, 1844; it came to an end on July 10, 1845, when all railway business was again thrown in with the ordinary business of the Board of Trade.<sup>2</sup> It is generally known as Dalhousie's Board, after its distinguished head, Lord Dalhousie, whose strenuous exertions here<sup>3</sup> probably damaged his health and contributed to his early death. Though quite a young man<sup>4</sup> (he was

<sup>1</sup> Lord Dalhousie's speech in defence of the Department, House of Lords, February 13, 1845 (Hansard, vol. 77, p. 351).

<sup>2</sup> A concise official account of the affair is given in Minutes of the Lords of the Committee of Privy Council for Trade, relative to the constitution and mode of Proceedings of the Railway Department (July 10, 1845), Accounts and Papers, 1845, XXXIX. (479). The "Railway Register" (vol. ii., 1845, pp. 102-112, Railway Legislation) deals with the abolition of the special Board, rejoicing in its death, and records the words in which Peel "pronounced sentence on the mischievous Committee of Five" (p. 102).

<sup>3</sup> "He was among the first to go to his office and the last to go away, often extending his labours to two or three o'clock in the morning" (*Times*, December 21, 1860).

<sup>4</sup> Dictionary of National Biography: "Ramsay, James Andrew Broun, tenth Earl and first Marquis of Dalhousie (1812-1860)." He went to the House of Lords in 1838, after sitting in the Commons one year.

only thirty-five years old when he went to India in 1847—the youngest Governor-General ever sent out from this country), he had a sound grasp of railway problems; and though in England he failed to convince Peel of the expedience of interference, he adhered in India to the principles which he had advocated in this country, and the Indian railway system was to a large extent his creation. He believed in the enlistment of private enterprise for Indian railway construction, but it was to be “directly, but not vexatiously, controlled by the Government.” Writing in 1853, he remarked that this principle “would have placed the proprietors of railway property in England and the suffering public in a better position.”<sup>1</sup>

In the forties the members of the Board<sup>2</sup> were known as the Five Kings. Lord Dalhousie's four colleagues were General C. W. Pasley, Mr. D. O'Brien,<sup>3</sup> Mr. G. R. Porter (the well-known author of “Progress of the Nation”), and Mr. Samuel Laing. The two last were the secretaries.

Mr. Morrison pressed Lord Dalhousie in 1845 to institute an inquiry into all the circumstances of foreign railways, believing that the evidence collected would be a useful guide to Parliament. Dalhousie said such a commission could not be formed, because the railway companies had engrossed all the available talent.<sup>4</sup> It will be generally agreed, however, that Dalhousie himself and the two secretaries of his Board were men of first-rate ability.

Before discussing the collapse of the Board, it is

<sup>1</sup> Dalhousie's Minute on Indian Railways, April 20, 1853 (quoted in Dictionary of National Biography).

<sup>2</sup> It is often named “Department,” but the word “Board” is used by the members in their minutes (Accounts and Papers, 1845, XXXIX., No. 35).

<sup>3</sup> Often called Captain O'Brien, but never so described in the Minutes of the Board.

<sup>4</sup> Morrison's “Influence of Railway Legislation,” pp. 23-25.

necessary to give some account of the work it did. This was varied ; there was the regular duty of inspection, and there was the preparation of special reports on such questions as the accommodation afforded to third-class passengers, the speed of the trains that were run in accordance with Gladstone's Act of 1844, the charges made by the railway companies for the carriage of passengers, cattle, coals, etc.<sup>1</sup>

But the main task of the Board was to consider the many railway schemes proposed, and to report to Parliament for or against them. This was done in a series of short summary lists, which were published in the *Gazette* from week to week. Some weeks later the reasons for the decisions were printed as Parliamentary papers. To take two of the most important cases, the summary decision of the Board on the London to York schemes was made on March 11, the detailed statement of reasons on March 20; the decision on the London, Worcester, and Wolverhampton scheme was dated February 4, 1845 ; the statement of reasons, February 28.<sup>2</sup> And besides the mass of Reports of this kind which they issued during the early months of 1845, the Board also drew up their Report on the proposed Amalgamations<sup>3</sup> of May 7, 1845, to which we have already referred. This Report gave little offence compared with the Reports on Railway Bills, but the spirit in which the one and the others were made was the same ; the Board wished Parliament to postpone or dismiss Bills when there was the least doubt about the need for them ; Parliament took the view that they should be passed unless there were strong reasons against them. In their Report on pro-

<sup>1</sup> Accounts and Papers, 1845, XXXIX. A general index to all the Reports made by the Railway Department of the Board of Trade from 1841 to 1846 is given in Accounts and Papers, 1847, LVIII., Part II.

<sup>2</sup> All in Accounts and Papers, 1845, XXXIX (pp. 133, 147, 243, 261).

<sup>3</sup> *Ibid.*

posed Amalgamation, for instance, the Board remarked that "hitherto Bills of this description" (for amalgamation) "have usually been brought forward as unopposed Bills, and have passed through Parliament without much discussion; but now amalgamations are proposed to so great an extent that we venture to suggest for the consideration of Parliament, that such extensive transfers . . . ought not any longer to be treated as matters of course, involving only the private interests of the companies seeking to make them." From this point of view the Report concluded that the arguments against the proposed amalgamation of the Grand Junction and the Liverpool and Manchester Companies greatly preponderated. (They examined this proposal and eight others in their Report, finding no objection to five of the schemes, but reporting unfavourably on the remaining four.) This amalgamation would put the Liverpool traffic in the hands of one company. "The Liverpool and Manchester Railway . . . receives the traffic of a number of different railways centring in Manchester;" it was undesirable to unite it with a North and South line of communication, the Grand Junction. Parliament, however, as we have seen, took a different view, and without any serious hesitation sanctioned, in 1846, the union of these two companies, and a third company, the London and Birmingham, by which the Liverpool and Manchester became the feeder of a North and South line stretching to London.

And similarly with the many Reports which the Board made on Bills that did not primarily involve amalgamation. In submitting each of those Reports "with a view to the information and assistance of Parliament," the Board stated: "We are anxious that it should be distinctly understood that we have arrived at these results solely upon public grounds, and to the exclusion of all considerations how far such results might require to be modified by a due regard for private rights and

interests."<sup>1</sup> A Parliamentary paper of July, 1845, shows that in the case of twenty-eight Railway Bills of the Session, Private Bill Committees of the House had disagreed with the Reports made on those Bills by the Railway Board.<sup>2</sup> Moreover, this list did not include the London and York scheme, which will be mentioned later.

No doubt the Board may have erred in some of its views. The members were able men, but, working under such pressure as they were, they could hardly be expected to have escaped from making occasional mistakes. Their views of public considerations may have been too strict to allow of the necessary railway development. But it is more reasonable to presume that the many separate Private Bill Committees failed to take any proper view of public considerations as a whole. Such Committees could not have had any general plan of railway development in mind. The Board which was responsible for supervising the general plan was in a far better position to weigh national considerations, and judge each isolated scheme not in isolation, but with reference to an ultimate harmonious whole; certainly the cautious policy of the Board would have been justified subsequently, though it might have disappointed some of the railway promoters of 1845.

The Board, however, was not in a position to stand against the railway public. Its constitution and powers were inadequate.<sup>3</sup> The public were infuriated at what they considered the secrecy of the Board—its publication

<sup>1</sup> In spite of this there were complaints of the partiality of the Board (see Grinling, p. 31); and in particular O'Brien was said to have favoured the S.E.R., of which his brother was manager, and in which he held shares. Lord Dalhousie refuted this accusation in the House of Lords, February 13, 1845 (Hansard, vol. 77, p. 359). Hyde Clark assumed that O'Brien was guilty ("Railway Register," vol. i., 1844-45, p. 281). Hyde Clark was violently opposed to the Board (pp. 81, 205, 353).

<sup>2</sup> Accounts and Papers, 1845, XXXIX. (548). The Bills and the decisions of both parties are given shortly in each case.

<sup>3</sup> The evidence of G. R. Porter before the Committee on Railway Acts Enactments (1846, XIV., Questions 3,614-3,649) is interesting.

of summary decisions without the reasons for the decisions. But it was the misfortune, not the fault, of the Board, that it had to do this. Lord Dalhousie explained the matter to the House of Lords in February, 1845.<sup>1</sup> As to the jurisdiction of the Board, and the authority with which it was invested, "nothing could have been farther from entering into even the imagination of the Government than that the Board's authority should be decisive."<sup>2</sup> As to the talk about the secret character of the Board, the mystery of deliberations conducted with closed doors, the meaning of this simply was that the Board was not an open court, and had not been invested with the power of summoning witnesses. As to the separate issue by the Board of their decisions and the reasons for them, Dalhousie explained that the Board was accountable to Parliament only, and therefore had to reserve its explanations for Parliament. The members would have preferred to report their reasons and decisions at the same time.

But, as Morrison's Committee of 1846 suggested,<sup>3</sup> the chief difficulty of the Board was its lack of support from Parliament. So far from asking the House to work in harmony with the Board, Peel had said that every Railway scheme must be re-discussed—practically setting aside the recommendations of the Board. The Duke of Richmond, in criticizing Peel's action, and bearing testimony to the excellent way in which Dalhousie had attempted to conduct his Board, said that

As head of the Statistical Department of the Board of Trade, he gave his views on the inadequacy of the Board's power of obtaining information.

<sup>1</sup> *Hansard*, vol. 77, pp. 351, 382.

<sup>2</sup> Gladstone's Committee in recommending the establishment of the Board had been careful to limit their power. The Reports of the Board were not "to prejudice the claims of private persons, the examination of which should be altogether reserved to the Houses of the Legislature" (*Fifth Report*, p. xv.).

<sup>3</sup> *Reports*, 1846, XIV., Second Report, p. xix.

many railway promoters, encouraged by Peel's speech, had persevered with their Bills, and had carried them, though before the speech they had meant to withdraw them.<sup>1</sup> And in the case of the London and York railway schemes—perhaps the most important of all those dealt with by Dalhousie's Board—Parliament gave the Board a thorough snub. There were twenty-three of these schemes; the main struggle, however, was between the proposed London and York Railway which would effect a new and independent communication from London to York (replacing the indirect route via Rugby and Derby) and the proposals backed by Hudson, which would effect this communication in connection with existing railways. After a historic fight in the Committee-rooms at Westminster, Hudson and the other keen opponents of the London and York were defeated, and the Great Northern Railway (the subsequent name of the "London and York") came into existence. But the victory cost the Great Northern £683,000<sup>2</sup>—a record price for a Railway Act.

Dalhousie's Board, however, had reported against the London and York, and they gave some weighty reasons for their decision. The main line to York was 186 miles long, and the various branches brought the total mileage up to 327. This, together with a capital of £6,500,000,<sup>3</sup> was an alarming proposal. The Board,

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<sup>1</sup> Hansard, vol. 85, p. 1059. See also vol. 84, p. 1226, for Hume's praise of the Board (especially Lord Dalhousie and G. R. Porter), and Labouchere's concurrence. Labouchere criticized the constitution of the Board; its powers were not sufficient "considering the enormous interests with which it had to deal."

<sup>2</sup> Accounts and Papers, 1854, LXII. (507). Return of sums spent by railway companies in obtaining Acts. The Great Northern figures are on p. 7. Against the one Act of 1846 (9 and 10 Vict., c. 71) the entries are £416,763 in legal and Parliamentary expenses, and £266,289 in engineering expenses. This Return and its continuation (1854-55, XLVIII., No. 460) were intended to show separately the sums spent on Amalgamation Acts, but the entries under this heading are very disappointing.

<sup>3</sup> And the £4,000,000 of the Direct Northern scheme, which was combined with the London and York.

with their constant advocacy of caution, were naturally opposed to the construction of a new trunk line ; they were very doubtful whether there would ever be sufficient traffic to justify the great outlay proposed, and they found some positive advantages in the alternative scheme of communication from Farringdon Street, via Cambridge and Lincoln.<sup>1</sup>

Their reasoning may have been incorrect,<sup>2</sup> and it may have been to the public interest that it was reversed by Parliament. But the noticeable point is that Parliament did not wait for the Report, but read the London and York Bill a second time, before the summary decision of the Board had appeared ; and the Committee stage began on March 12, the day after the detailed reasons for the decision had been published ; the Committee announced their intention of proceeding with the Bill, "just as if no Board of Trade existed."<sup>3</sup> So much for Dalhousie's Board.

Its failure led to a louder clamour for a Government Department that should supervise railways. Wilson Patten's Committee on Amalgamation, as we have seen, laid stress on the need for such a Department. The railway and canal system they said<sup>4</sup> had become so extensive and complicated that no enactments passed by Parliament could provide for all contingencies ; "after mature consideration, your Committee have come to the conclusion that it is absolutely necessary that some

<sup>1</sup> Their Report (*Accounts and Papers*, 1845, XXXIX., No. 153) and the accompanying map are very interesting. The Board began (p. 2) by stating their belief that (owing to the interruptions caused by the Tay and Forth) "the Eastern line can never become the principal trunk line between England and Scotland." This belief inclined them to prefer accommodation to absolute directness. The preference of the Board for extensions of existing systems rather than complete new routes may also be seen in their Report on the South Eastern schemes and others given by Hyde Clark in the "Railway Register," vol. i., 1844-45, p. 372.

<sup>2</sup> Grinling (p. 31) criticizes the accuracy of the facts of the Report.

<sup>3</sup> *Ibid.*

<sup>4</sup> Second Report, 1846, XIII., No. 275, p. v.

Department of the Executive Government, so constituted as to command general respect and confidence, should be charged with the supervision of railways and canals, with full power to enforce such regulations as may from time to time appear indispensable for the accommodation and general interests of the public." This Report was made on May 6, 1846. Dalhousie's Board had ceased to exist ten months before, and with it the Reports to Parliament on the merits of railway projects, and the comparative merits of competing schemes.<sup>1</sup> Meanwhile the Railway Bills had been pouring in,<sup>2</sup> and the "extensive and complicated system" was increasing more rapidly than ever. A Government Department appointed there and then would have had little chance of influencing railway promotion, but there was not one appointed until later, after another Committee had reported still more strongly. This was Morrison's Committee. Their main recommendation was contained in the first resolution of their First Report: "That it is expedient that a Department of the Executive Government, so constituted as to obtain public confidence, be established for the superintendence of railway business."<sup>3</sup>

But the whole history of the Committee is interesting, and some brief account of it must be given here.

Morrison moved for the Committee on March 19, and in doing so, he spoke<sup>4</sup> somewhat dictatorially of what he meant to do by means of a Committee: he would show that cheap fares were advantageous; he would put before the Committee the desirability of granting leases of lines instead of concessions in per-

<sup>1</sup> Accounts and Papers, 1845, XXXIX. (479); Minutes of Committee for Trade, p. 3, No. 3.

<sup>2</sup> Francis (vol. ii., pp. 248-253) gives a graphic picture of the rush to deposit Railway Bills at the Board of Trade.

<sup>3</sup> Select Committee on Railways Acts Enactments. First Report, August 7, 1846 (1846, XIV., No. 590).

<sup>4</sup> Hansard, vol. 84, p. 1229.

petuity. Hudson<sup>1</sup> strongly deprecated the proposal. Gladstone's Committee had sat but two years earlier, and Gladstone's Act had been passed. Surely there was no need for further interference. "We want to rest on some firm basis. We want to know on what principle we are to enter upon these great commercial undertakings. . . . We ought to have some security for our property, and some rest from the constant agitation of legislation." Morrison, he said, had an idea that railways were a most profitable speculation. "I am sure I should be very glad to meet him, by placing a railway under his management, in order that he might make his experiments in reducing fares." He further suggested that Morrison had suffered in the railway depression of 1836, and had fought shy of railways since then, and criticizing Morrison's motion for a Committee, Hudson protested that the granting of it would amount to a breach of faith between Parliament and the railways.

After a rambling debate, Morrison's motion was agreed to,<sup>2</sup> and a strong Committee of fifteen members was appointed ; among the members were the Chancellor of the Exchequer (Goulburn), Lord John Russell, Sir George Grey, Sir George Clerk, Hudson, Labouchere, Wilson Patten, and Morrison, the chairman. The Committee took valuable evidence from Cubitt, Brassey,<sup>3</sup> Hawkshaw, Stephenson, Porter, and other authorities on railway matters, besides putting Hudson through a very searching examination.<sup>4</sup> They col-

<sup>1</sup> Hansard, vol. 84, p. 1243.

<sup>2</sup> *Ibid.*, p. 1267.

<sup>3</sup> In the Minutes of evidence Cubitt and the other engineers are described as "Esquire," but the great contractor is "Mr." T. Brassey.

<sup>4</sup> See above, p. 41. Morrison reviews the evidence of many witnesses, particularly of Hudson, in his tract, "The Influence of English Railway Legislation on Trade and Industry." His feeling against Hudson had perhaps been accentuated by Hudson's ridicule of him in the House mentioned above (p. 103). In the tract Morrison is very critical of Hudson's professed honesty. See especially p. 90 : "An Aristides," etc.

lected a mass of valuable information from the railways, which they published in appendices to their Reports. But for some unexplained reason, their First Report—ten summary resolutions, dealing with the proposed Railway Department, and its work, was not presented to Parliament until August, though the Committee had agreed to it two months earlier.<sup>1</sup> And the Second Report, a detailed paper of twenty pages, though actually presented to the House at the end of August, was not correctly speaking a report, but a draft, and should not have been presented at all.

A special Committee of Inquiry appointed in the following Session reported—with explaining the error—that the irregularity appeared to have arisen purely in mistake.<sup>2</sup>

This Second Report, therefore, cannot be taken as authoritative. The strong and uncompromising opinions which it contains, make it clear that it was Morrison's own work, and it is doubtful whether the Committee would have accepted it without considerable modification. We may, however, attach some importance to it, not only because of Morrison's enlightened views on railway problems, but also on the ground that he must have been guided to some extent by the views of his Committee, and would not have prepared a report which he knew they would reject.

The Report began by discussing the line between public and private legislation, "which has seldom been correctly drawn in this country." This was with a view to showing the danger of classing communications among the subjects of private legislation. "The roads are public concerns ; they are as necessary to a

<sup>1</sup> See Proceedings of the Committee (1846, XIV.), pp. xxvi. and xxx. Leave to report from time to time was only asked for on August 7, but there is nothing to show why it should not have been asked for on June 16.

<sup>2</sup> Morrison gives the "Draft of Report" in his Tracts (No. V.), and in a footnote to p. 158 describes the mistake mentioned above.

people as the air they breathe." But railways are the most important means of communication ; monopoly is possible on a railway but hardly on a highway ; therefore the need for the nation to regulate and control its railways. France and Belgium were quoted by Morrison as examples of control. "In England alone were companies allowed the possession of lines in perpetuity subject to no available conditions." In Prussia a comprehensive system of lines was traced. "In England no comprehensive system has ever been traced. The lines promising the most ample returns were, as a matter of course, first selected by companies ; but the best mode of communicating the benefits of railways to the kingdom, considered as a whole, was only incidentally considered by Committees in deciding between rival projects." Rival lines had been sanctioned where they were not wanted. Robert Stephenson, in his evidence, quoted a case at Wisbeach, "Where, within half a mile of that town, there were actually fourteen different schemes ; . . . now all the legal expenses and the expenses of engineers have been thrown away, because only one Act has been obtained." His authoritative opinion was always severely critical of Parliamentary practice. Reviewing the past in an address which he gave in 1856, he spoke of the "anomalies, incongruities, irreconcilabilities, and absurdities" of railway legislation, and urged the necessity of a "tribunal competent to judge and willing to devote its attention to railway subjects."<sup>1</sup>

Morrison's report viewed railways in the light of monopolies, and pointed out the need of effectively controlling them. Besides high fares, it referred to the "offensive conduct of English directors" in seeking to exclude third-class passengers.

As to railway legislation, the report favoured

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<sup>1</sup> Jeaffreson and Pole, "Life of Robert Stephenson," vol. i., p. 281. Presidential Address to the Institution of Civil Engineers.

Stephenson's suggestion that "no project for the construction of a new railway should be allowed to be brought forward till it had been considered by a Government Board." The failure of Dalhousie's Board (which had taken "more enlarged views . . . than the Legislature and the Public were then prepared for") was no argument against a new Government Department<sup>1</sup> . . . "objectionable as the mode of proceeding before Committees confessedly is, and erroneous as their decisions may sometimes have been, this evil, great as it is, sinks into insignificance in comparison with that to which the country has been exposed from the want of a Board of high character connected with the Executive Government to watch over the public interests in railway affairs." Growing still more determined and outspoken as he came to the end of this strong report, Morrison concluded by recommending that railways should be obliged to carry mails free of charge;<sup>2</sup> that no future lines should be ceded except for terms of years; that full and accurate railway accounts should be laid before Parliament, and that the unnecessary issue of new shares, beyond those required for the actual outlay, should be stopped. Finally, "in order that the intentions of Parliament may not be defeated by the directors of companies, and in order that a judicious railway system may be ensured, and a cheaper and more effective mode of conducting preliminary inquiries than now takes place before Parliamentary Committees may be adopted, a Board or Department of the Executive should be appointed."<sup>3</sup>

<sup>1</sup> The *Manchester Guardian* (quoted by *Railway Times*, August 22, 1846, p. 1165) spoke strongly of Parliament's treatment of Dalhousie's Board, and favoured the establishment of a new Board, which, on the lines of the Enclosure Commissioners' procedure, should have absolute control of the sanctioning of Railway Bills.

<sup>2</sup> By passenger trains. If there were no trains running, a charge would be made for the special train required.

<sup>3</sup> Morrison's Committee took much evidence on the question. It

This was only an expansion of the resolution that had been made in the First and official Report of Morrison's Committee—and that had been agreed to in the House of Commons.<sup>1</sup> Still another Committee had also urged the same point—the Select Committee of the House of Lords which reported in July, 1846.<sup>2</sup>

So the Chancellor of the Exchequer was not exaggerating when, a month later, in introducing a Bill for the establishment of a "Railway Board," he said that Committees of both Houses, and resolutions, favoured and urged this.<sup>3</sup> He explained the Bill briefly, and pointed out that it could only be carried now at the end of the Session by common consent. The first and second readings were unopposed. In the Committee stage,<sup>4</sup> Colonel Sibthorpe objected that the Bill would set up a body like the "new Poor Law Board," of whose failings they had recently heard so much.

A more enlightened person might have seen that this comparison with the Poor Law Commissioners was the very point; centralization, and a unified policy of administration throughout England, had been the great feature of the reforms of 1834, and had undeniably saved the country from the degradation and the expense attendant on the chaotic system of poor relief before that time. A central controlling authority for the scattered and inharmonious railway systems might have been justified on the same grounds.

A few other remarks were made in an almost empty House, and then the Bill went on its way and became law on August 28, 1846.<sup>5</sup>

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is well indexed under the heading "Government Board." Glyn's evidence is valuable.

<sup>1</sup> August 18, 1846. Morrison moved that the House confirm the resolutions reported by his Committee: there were ten resolutions. After some discussion the first resolution was agreed to, and the remainder were withdrawn.

<sup>2</sup> Report, 1846, XIII., p. 217.

<sup>3</sup> Hansard, August 19 (vol. 88, p. 891).

<sup>4</sup> *Ibid.*, August 21, p. 929.

<sup>5</sup> Act for Constituting Commissioners of Railways, 9 and 10 Vict., c. 105.

The Act constituted not more than five Commissioners of Railways, including a President, who was to have a salary of £2,000. Two of the others were to have £1,500 each, and two were to be unpaid. The President and the unpaid Commissioners might sit in Parliament. All the powers with respect to railways that had been vested in the Board of Trade were transferred to the Commissioners, and it was further enacted that the Commissioners, "if so directed by Parliament," should report on railway schemes—in particular as to competition, and as to amalgamation powers.

The Act only contained a general outline of the new Commission, and it was understood that the Commissioners' powers would be defined in a subsequent Act. Parliament, in fact, having delayed too long, was at last hurrying to create a controlling department. The Act was passed, and the Session ended on August 28; the record year of railway promotion and legislation was ended.

The new Commissioners came into office on November 9, 1846. The first four appointed were the Right Honourable Edward Strutt (President), Lord Granville, Sir Edward Ryan, and Colonel Brandreth, R.E.<sup>1</sup> Strutt resigned early in 1848, having lost his seat in Parliament through a petition on account of bribery, a mischance that enabled an opponent of the Railway Commission to suggest that just as Strutt's election agents at Derby had acted contrary to his orders, so his subordinates in the Railway Commission might have failed in the performance of their duties.<sup>2</sup> His place as President of the Commissioners was taken by the Right Honourable H. Labouchere, President of the Board of Trade, who, as such, naturally brought the Commission and the

<sup>1</sup> Colonel Brandreth's unexpected death is mentioned in the First Report of the Commissioners.

<sup>2</sup> Mr. Banks' speech criticising the Commissioners, March 28, 1848 (Hansard, vol. 97, p. 1064). Strutt's election was declared void in 1847. He returned to Parliament in 1851 as member for Arundel.

Board into touch with each other, and facilitated the resumption by the Board of its railway duties, when the Commission was swept away in 1851 by an Act of Labouchere's which, throughout all its stages, was unopposed.<sup>1</sup>

The Railway Commissioners of 1846, therefore, were abolished before they had been in existence five years. This appears rather remarkable when we remember how strenuously their establishment had been advocated. Two immediate reasons have been given. The first is Professor Hadley's well-known saying : "In 1846 Parliament tried the experiment of a Commission, offered first-rate salaries, secured well-known men, and then avoided all offence by not giving them any powers. Dalhousie's Board had died of too much work and too little pay ; the Commissioners died of too much pay, too little work."<sup>2</sup>

The second is contained in a speech of Labouchere's in 1848. Explaining why the Commissioners had made no further attempt to get their powers defined by Parliament, he said it was "difficult to please the House on questions of railway legislation ; the House was always disposed to quarrel with what existed, to demand a change, and then to quarrel with the alteration."<sup>3</sup> Let us see how far these reasons cover the question.

The Commissioners, as we have shown, were hastily established in 1846. In February, 1847, their President, Mr. Strutt, introduced a Bill for regulating their

<sup>1</sup> An Act to repeal the Act for constituting Commissioners of Railways, August 7, 1851 (14 and 15 Vict., c. 64). The Act consisted of but three sections : From October 10, 1851, the powers vested in the Commissioners were transferred to the Board of Trade ; the Board might retain officers employed by the Commissioners. For the unopposed progress of the Bill, see Hansard, vol. 118 (1851), index. There was not even a discussion on the motion for leave to introduce the Bill.

<sup>2</sup> "Railroad Transportation," chap. ix.

<sup>3</sup> Hansard, March 28, 1848, p. 1080.

proceedings and defining their powers—as it had been understood he would do, when the Act was passed at the end of the previous Session.

The Bill was not proceeded with until four months later;<sup>1</sup> then Strutt moved for the second reading, but he was opposed and withdrew the Bill, it being understood that the Government would introduce another one in the following Session.<sup>2</sup> That other Bill never came. In 1848 Strutt was out of office, and the transfer of his post as President of Commissioners to Mr. Labouchere, the President of the Board of Trade, meant the abandonment of the principle that the Commissioners should stand in Parliament independent of the Board, and gave ground for Gladstone's criticism that the "whole basis of the Commission had failed."

Gladstone was speaking on a motion to diminish the cost of the Commission.<sup>3</sup> There was a great deal of talk about economy. Many comparisons were drawn between the cost of the old Railway Department of the Board of Trade and of the Commissioners, and the critics, including Hudson and Gladstone, argued that the Railway Department had done the work better than the Commissioners were doing it. This motion went

<sup>1</sup> In their First Report the Commissioners stated that Government had meant to give them additional powers, but the Bill, introduced early in the Session of 1847, was crowded out by other public business until it was too late (*Reports of Commissioners, 1847-48*, XXVI., p. 47).

<sup>2</sup> *Hansard*, vol. 89, February 11, 1847 (p. 1175) : Strutt's explanation of the Bill. Vol. 93, June 21, 1847 (pp. 762-779) : Withdrawal of Bill, to disgust of Colonel Sibthorpe ("had never known such vacillation ; House trifled with by Government") and to delight of Hudson (p. 781). The actual measure (*Bills, 1847*, III., No. 65) and the second edition of it (No. 442, May 21, 1847) are both very long and detailed (over 110 clauses) ; practically a code on railway construction, etc. Many faults were found in detail with the procedure under the Bill in an anonymous pamphlet, "Observations on Mr. Strutt's Railway Bill," 1847.

<sup>3</sup> *Hansard*, vol. 97, March 28, 1848, p. 1071. The motion was introduced by Mr. Bankes, who stated that it was meant to be a preliminary to the repeal of the Commission.

in favour of the Commissioners by 75 votes to 56 votes.<sup>1</sup> But in July, 1848, some three months later, Mr. Bankes again brought the question forward, asking leave to introduce a Bill to repeal the Railway Commissioners Act.<sup>2</sup> On this occasion the voting was 62 for Mr. Bankes, 73 against. Gladstone again stood up for Dalhousie's Board, and ridiculed some details in a Report of the Commissioners. In reply to Labouchere, who, while praising Dalhousie, had said that his decisions had been constantly upset because the officers by whom he was advised "were not of sufficient weight and standing," Gladstone denied that the Commissioners were better men than Dalhousie's Board, and said the only difference was that they were paid twice as much.

The sum involved in 1848 was £13,500;<sup>3</sup> when the matter was again discussed in August, 1850, it had fallen to £7,946, and Labouchere, replying to Sibthorpe and Hume, who opposed the vote for this amount, remarked that economy was the very least part of the subject.<sup>4</sup> But in June, 1851, on the vote of £8,062 for the Railway Commissioners, Labouchere stated that he agreed with the recommendation of the Salaries Committee that the Railway Commissioners should be reunited with the Board of Trade.<sup>5</sup> Economy, in fact, was the chief consideration, and the Commission consequently came to an end.

£10,000 a year is not a large item in the Budget, and it is not unreasonable to ask why the unfortunate Railway Commissioners should have been singled out as the object of this rigid economy. Were they so useless? Were their reports and their work so valueless

<sup>1</sup> Hansard, vol. 97, p. 1083.

<sup>2</sup> Hansard, July 4, 1848, pp. 110-126.

<sup>3</sup> Including the £2,000 for the President's salary, which, however, was not actually paid, as Labouchere was drawing his salary as President of the Board of Trade.

<sup>4</sup> Hansard, August 1, 1850, p. 647.

<sup>5</sup> Hansard, June 26, 1851, p. 1293

to Parliament? As the House did not appear to need the Commissioners, and probably neglected their Reports,<sup>1</sup> the answer must be in the affirmative, but on examining the Reports one is inclined to regret that the House allowed the economic to overcome the historical instinct; the Reports contain so much interesting material for the history of English railways that posterity may regret the grudging of a paltry £10,000.

The Reports also suggest that Hadley's dictum, "too much pay and too little work," is hardly fair. The Commissioners must have been extremely busy.<sup>2</sup>

<sup>1</sup> Mr. Bankes, in moving the repeal of the Commission, criticized the length of the Reports, and said that ten or twelve pages would be more useful and effective than three hundred or so (*Hansard*, vol. 100, p. 114). One may also notice that, whereas in their first year of office the Commissioners were asked by Parliament to report on every Railway Bill of the Session, their Report for 1850 [1851, XXX. (1332), p. 23] states that only eight Bills have been referred to them. Their views were accepted by Parliament in the case of five of these Bills.

<sup>2</sup> See the following volumes: 1. *Reports of Commissioners*, 1847, XXXI. [This volume is entirely occupied with Reports from the Railway Commissioners. They state that Parliament has resolved that they should report on all the Railway Bills of the Session as to capital, previous powers, amalgamation, etc., before the Bills are considered by Committees. There are 164 of these separate Reports on Bills; in many cases appendices of Railway Companies Acts, capital, etc., follow. At the end of the volume there is a special report (792) on a central station at Glasgow, made by three of the Commissioners acting under warrant as a Royal Commission.]

2. *Reports of Commissioners*, 1847-48, XXVI. [The First General Report of the Commissioners, from November 9, 1846, to December 31, 1847. It contains a return of accidents, in the style of previous Board of Trade returns; particulars as to opening of railways, by-laws, settlement of disputes, arbitration, etc.; insertion of special clauses framed by Commissioners in Amalgamation Bills; statement of Commissioners' views as to powers to be granted them by Parliament.]

3. *Reports of Commissioners*, 1849, XXVII. (1061). [Similar Report covering the year 1848. General Report followed by 200 pages of appendices, statistics of accidents, etc.]

4. *Reports of Commissioners*, 1851, XXXI. (1249). [Ditto for 1849. Appendices of 300 pages.]

5. *Reports of Commissioners*, 1851, XXX. (1332). [Ditto for 1850. The General Report contains long statements of the Commissioners' powers of interference and legal position. Statistics are

It is true, however, that the Commissioners had not enough work to do, in the sense that their work had not the support and approval of Parliament behind it, and so was lacking in authority. As Labouchere said, the House had demanded a change, and then, instead of co-operating with the Commissioners and making their work useful, had grumbled at the alteration and nullified it.

But we must look below the surface to detect the ultimate causes of the Commissioners' failure. They are: (1) The devotion of Parliament to the Private Bill system of legislation, with which the work of the Commissioners would have clashed had it been allowed proper scope; (2) the railway mania, which was practically concluded when the Commissioners began their work, and which by its acceleration of railway progress up to 1846, and the subsequent depression that it left, first encouraged the demand for a Commission, and then removed to a large extent the need for it when it had been established.

Amid the confusion and excitement of railway promotion in 1846 a Commission had appeared the only remedy.<sup>1</sup> In the years immediately following, caution

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more fully discussed than in previous Reports. Colonial Railway Acts are examined. Appendix of 350 pages. Remainder of volume filled with Special Reports of auditors or inspectors appointed by the Commissioners.]

6. Accounts and Papers, 1847-48, LXIII. [A volume full of valuable returns and statistics, especially on railway finance, and also including the "Return of Existing Amalgamations, 1848," and map referred to above (Chap. II., note, p. 58). In a short paper (713) in this volume the Commissioners describe the powers and duties of their Department.]

7. The Special Report of the Commissioners on the Gauge Question ("Communications between London and Birmingham," May 22, 1848, No. 90).

<sup>1</sup> Samuel Smiles' opinion is of interest. Of the speculations and rival promotions of 1845 and 1846 he wrote: "A well-digested scheme of railways, superintended by scientific men appointed by Government, would have prevented the enormous blunders, the gambling risks, and the extravagant Parliamentary expenditure, etc.

replaced speculation, and railway schemes were regarded with disfavour. Parliament was no longer overwhelmed with railway business, unscrupulous and unnecessary companies were no longer promoted. The speculator had disappeared in the ruin of 1847, and over-sanguine railway meetings gave place to pessimistic gatherings at which economy and abstinence from further outlay were preached, while recrimination and abuse were heaped on directors for their policy of aggrandisement in previous years.

We do not wish to suggest that a permanent controlling body was unnecessary because railway promotion was at a standstill. If the controlling body had possessed sufficient powers and been in harmony with Parliament, it could have done valuable work at any time. We only suggest that when the need for a body that would help Parliament with Railway Bills was lessened by the diminution in the number of Bills, Parliament appeared to consider that the chief use of that body was gone, and Parliament was glad to find that the ordinary system of Private Bill Committees could cope with the work without assistance from outside.

There is no need here to say much about this system. It is a well-known feature of English Parliamentary life, and we are so accustomed to it that we are almost surprised to find foreign observers examining its peculiarities and wondering at its originality.<sup>1</sup>

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But the mischief which the Government might have prevented is now done" ("Railway Property." London : Effingham Wilson. About 1849).

<sup>1</sup> Cohn (vol. i., pp. 191-203) gives a most interesting review of the Private Bill Committee, and of Select Committees and Royal Commissions. He brings out the opposition between the Private Bill Committee and the Government Board or Department, and emphasizes features of the former which the Englishman may overlook by reason of his familiarity with the system. "The Committees, with their wonderful mixture of judicial, administrative, and legislative functions," are distinctively English, and represent in miniature the whole political spirit of the country. The system is exhaustively treated in Clifford's "History of Private Bill Legislation."

The system has worked well in ordinary circumstances. Weighty arguments can be found in favour of the judicial examination in these Committees of the various Private Bills which Parliament is asked to sanction. The disadvantages are that the decisions are based on the merits of each particular case by small Committees, collected for that case alone, guided chiefly by local considerations, inclined to resent general directions and jealously opposed to the advice of permanent Departments. The merits of each particular case may clash with the general interests of the country. A Private Bill Committee might find the case for a small railway scheme fully proved, but a body which took a comprehensive view of the whole system of railway communications might find that money could be saved and better facilities provided by a different scheme in connection with an existing railway. The subsequent union of these small companies with the larger companies was generally a foregone conclusion, and might advantageously have been anticipated. Gladstone's Committee of Inquiry put the matter well : "It is almost impossible to hope that from the separate and unconnected proceedings of bodies, whose existence commences and terminates with the single occasion of each particular Railway Bill, there should issue any distinct system of sound general rules, uniform in their foundation and varying, where they do vary, in a strict and constant proportion to the actual peculiarities of the case."<sup>1</sup>

But Gladstone's Committee recognized that the remedy for this—departmental supervision—involved interference ; if railway promotions were to be dependent upon the views of a controlling body that regarded

<sup>1</sup> Select Committee on Railways, 1844, Fifth Report, p. 6. The whole question is admirably discussed in the third section of this Report, from which we quote. See also the judgment of Cardwell's Committee on the Private Bill system (p. 185), and of the Committee of 1863 (p. 208), and of the Royal Commission of 1867 (*ibid.*, p. 214).

the railway system as a whole, the perfect freedom of enterprise so beloved in the forties might suffer. Promoters of a local scheme, whose cause satisfied all the requirements of a Private Bill Committee judging it on its own merits, might nevertheless be thwarted by the consideration of other than local interests.

Gladstone's Report bravely faced this difficulty, and was prepared to make some sacrifice of *laissez faire* principles. But there, in the economic creed of individualism, in the righteous horror of interference with the freedom of private enterprise, lies the root explanation of Parliament's devotion to the Private Bill system, and more generally of its suspicion of controlling departments.

The Railway Commissioners themselves recognized the strength of this faith, and paid a magnificent tribute to it in their First Report,<sup>1</sup> when they were suggesting to Parliament the powers with which they wished to be invested. How far, they asked, can the superintendence of private railways by a Government Department be justified? "In considering this subject it must not be forgotten that all interference must be regarded as an exception from the ordinary rules which should regulate commercial enterprise, and as requiring to be justified by special circumstances. Although Governments may in former times have imagined that they were able to promote the interests of the public by regulating the supply of commodities, and by interfering with the proceedings of private traders and capitalists, it is now generally admitted that such interference was founded upon erroneous principles, and that the interests of the public are best consulted by leaving supply and demand to be regulated by the principle of competition." All this, before venturing to suggest that railways were to some extent exceptional, and might be subjected to regulation! To their words

<sup>1</sup> Reports of Commissioners, 1847-48, XXVI., p. 50.

we may add, in conclusion, some remarks made by Sir Robert Peel. He was, as we have already shown, a great upholder of non-interference. In April, 1846, he called the attention of the House of Commons to the immense sums of money involved in the Railway Bills of the Session, and he carried some resolutions which aimed at preventing some of the frauds in promotion that were current; the House would not give Bills a third reading unless certified that the shareholders concerned had been properly consulted.<sup>1</sup> Yet he found it necessary to preface this most reasonable and moderate piece of interference with the following exposition of economic policy: "No one can be more impressed than I am with the importance of adhering to the great principle of permitting in this commercial country the free application of individual enterprise and capital, and although I must contend that there is a distinction between the ordinary application of capital to commercial enterprise under existing law, and the demands made to Parliament to give to inchoate companies large powers of taking possession of the property of others, and establishing, as I fear is the case in many instances, a qualified monopoly, yet that general principle is so valuable that even with respect to that species of commercial enterprise which seeks to be invested with the authority of Parliament, I should be unwilling, under all ordinary circumstances, to interfere."

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<sup>1</sup> Hansard, vol. 35, pp. 892-958, April 23, 1846. Dalhousie moved similar resolutions in the House of Lords, which were carried on April 27 (p. 1070).

## CHAPTER VII

### THE CRISIS OF 1847: AMALGAMATION AND THE RAILWAY CLEARING-HOUSE

It would appear a plausible theory to attribute the financial crisis of 1847 to the Government's reluctance to interfere. One is tempted to find in the crash of that year a merciless judgment on the inconsistencies of Parliament in railway matters. On examination, however, it appears that the so-called "railway" crisis of 1847 was not due to railways, though it certainly put a most effective check upon railway promotion,<sup>1</sup> doing in a rough and disastrous fashion what many observers had wished Parliament to do in the preceding years. In the depression that followed there was plenty of that caution and deliberation that the Board of Trade had wished to instil into railway counsels in 1844. The work of restraint and careful consideration which a strong Government Department might have done before 1847 was not very necessary in the following years, when Railway Boards had a dread of incurring any fresh expenditure.<sup>2</sup>

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<sup>1</sup> See Samuel Salt's "Facts and Figures Principally Relating to Railways and Commerce," 1848. A speech of Cobden's at Stockport (December, 1847) is quoted (p. 32): "Directors would be obliged to suspend works because shareholders could not pay calls. Parliament had done the most insane act in passing so many Railway Bills. Railway extension should have been spread over ten or fifteen years; practically that would now have to be done because of the monetary depression."

<sup>2</sup> Cf. G.W.R. half-yearly meeting, February 17, 1848 (*Railway Times*, February 19, 1848). The chairman (Russell) stated that the Company were restricting their operations within the narrowest possible limits, and were applying to the Railway Commissioners for

The facts as to the "railway crisis" are briefly as follows : "Ever since the reforms introduced by Sir Robert Peel (1842) the country had been very prosperous, the labouring classes were fully employed, and capital had been steadily growing in the country. The amount of bullion in the Bank of England had never been so large. Consols were at par. The rate of interest for short periods on the best securities did not exceed  $2\frac{1}{2}$  per cent. There was in fact a great want of means of investment, and when it was found that one or two great lines of railway proved most successful, the people readily rushed into railway speculation."<sup>1</sup> A railway "mania" followed, reaching its highest point about August, 1845.<sup>2</sup> We have shown already that 1846 was the record year for railway legislation, but it was in 1845 that the proposed schemes were being discussed and put before the public. Many warnings were given, especially by the *Times* newspaper, that a crisis was inevitable after the remarkable boom; but the position remained outwardly sound as late as August, 1846, when "the bullion in the Bank of England reached the enormous sum of 16 million," and the rate of interest was still  $2\frac{1}{2}$  per cent.<sup>3</sup> Then

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an extension of time for some of their works. He said that the Company could distribute 4 per cent. dividends, but urged the shareholders to take  $3\frac{1}{2}$  per cent., and leave a big balance. "The crisis and panic have passed, but the distress which they have occasioned is left behind." At the Midland meeting Hudson similarly preached economy, and made the gratifying announcement that the Board would not ask for any money that half-year (*Railway Times*, February 26, 1848).

<sup>1</sup> Leone Levi, "History of British Commerce," part iv., chap. iv., A Commercial Crisis, 1847.

<sup>2</sup> D. Morier Evans, "The Commercial Crisis, 1847-1848," pp. 16-20. Evans divides his work (a contemporary sketch) into three parts: (1) The Railway Mania. He ends this at December, 1846. (2) The Food and Money Panic, 1847. (3) The French Revolution, 1848. His work is full of valuable detail, and is the best account of the commercial crisis.

<sup>3</sup> Morier Evans, p. 54. See also Hyde Clark's "Railway Register," vol. iii. (1846), p. 111: "Absence of pressure in money market; money has seldom been more abundant." He criticized the *Times* for engendering a feeling of want of confidence (p. 346).

came the failure of the potato crop,<sup>1</sup> and the bank rate began to rise—too slowly according to many critics, who held that the crisis might have been averted by more decided action on the part of the Bank directors.<sup>2</sup> By April, 1847, the rate had risen to 5 per cent. In May “the corn market reached its highest price, sales being effected in Mark Lane at 115s. per quarter”; but the close of the month brought a fall, promoted by the expectation of a good harvest.<sup>3</sup> This fall continued rapidly, on the prospect of abundant supplies from America; by August the average price had fallen to 64s. the quarter, and the corn-merchants who had speculated at the higher prices began to collapse.<sup>4</sup> Their failures during August (notably the failure of a large London corn-house—Robinson and Co., whose principal member was Governor of the Bank of England) led directly to panic, which became more severe in the following months. The failure of corn-houses continued all over England, and now other mercantile and banking houses began to collapse. In the opinion of an expert authority the catastrophes of the autumn of 1847 were beyond all parallel in our monetary history.<sup>5</sup> Mr. Morrison wrote of the crisis in these words: “Whole classes have been as it were decimated. Mercantile houses, ranking high in general estimation and hitherto supposed . . . to be possessed of immense resources, fell one after another.”<sup>6</sup>

The London bankers and merchants petitioned Parliament in July, 1847, to extend the note-issuing

<sup>1</sup> The second failure. That of the previous year had brought on the Repeal of the Corn Laws in 1846.

<sup>2</sup> Morier Evans, pp. 58, 59; quoting from *Times* and *Economist*.

<sup>3</sup> Morier Evans, p. 63.

<sup>4</sup> Morier Evans, pp. 65, 67, 68. See also pp. 72-91 of the contemporary comments in the “Larchfield Diary”—extracts from the diary of Mr. Mewburn, a north country railway solicitor, whose experience and observation render his comments on the mania and crisis very valuable.

<sup>5</sup> S. Gurney’s evidence, quoted by Morier Evans, p. 84. See also the lists of failures given by that writer on pp. 67, 69, 73, 74, 91, 92, 103-106.

<sup>6</sup> Morrison’s “Influence of English Railway Legislation,” p. 6.

powers of the Bank of England. These had been rigidly limited by Peel's Bank Charter Act only three years earlier, and as the chief aim of the Act was to prevent the excessive note issues which had aggravated previous crises, the Government were naturally averse from infringing the Act. Finally, however, after a "week of terror" in the City, Lord John Russell and the Chancellor of the Exchequer, Sir Charles Wood, gave the Bank permission, on October 25, 1847, to exceed their statutory limits of note issue, subject to the rate of interest being not less than 8 per cent. The mere knowledge that the Bank had this power to assist sound firms was enough to restore confidence; there was no need to issue extra notes; panic subsided, and though many further failures occurred, trade began painfully and cautiously to resume its ordinary course, though materially affected by the revolutionary disturbances on the Continent in 1848.

A large and important Committee was appointed by Parliament on December 15, 1847, to inquire into the commercial distress. Besides the Prime Minister (Russell), the Chancellor of the Exchequer, and Labouchere, the Committee included Peel, Cobden, Disraeli, Baring, Goulburn, Cardwell, Sir James Graham, and two railway chairmen who were also bankers—Glyn and George Hudson—besides fourteen other members.

The Committee examined many witnesses, some of them as to railway matters, but to a larger extent for evidence as to financial matters, and above all the Bank Charter Act of 1844; one is inclined to regret that this Act overshadowed all other questions. The Committee reported<sup>1</sup> in June, 1848, that there was a

<sup>1</sup> First Report from Select Committee on Commercial Distress, 1847 (Reports of Committees, 1847-48, vol. viii., No. 395). The Second Report (No. 584, of August 2, 1848) is only a single page dealing with Ireland and Scotland; appendices dealing with banking matters follow.

concurrence of opinion among the witnesses that "the primary cause of the recent commercial distress was the deficient harvest, especially of the potato crop in 1846, and the necessity of providing means of payment in 1847 for the unprecedented importations of various descriptions of food which took place in that year." Beyond this, "the deficient supply of cotton, the diversion of capital from its ordinary employment in commercial transactions to the construction of railroads, the undue extension of credit, especially in transactions with the East, and exaggerated expectations of enlarged trade," had been considered contributory causes by some witnesses.<sup>1</sup>

A House of Lords inquiry into the same question reported thus:<sup>2</sup> "A sudden and unexampled demand for foreign corn . . . coincided with the unprecedented extent of speculation produced by increased facilities of credit and a low rate of interest, and had for some time occasioned over-trading in many branches of commerce. This was more especially felt in railroads for which calls to a large amount were daily becoming payable, without corresponding funds to meet them, except by the withdrawal of capital from other pursuits and investments." The contemporaneous rise of price in cotton is then mentioned, and this conclusion is reached: "In what precise proportions these causes contributed to the common disaster, there is room for difference of opinion, but no one disputes that each had a considerable share." On the whole it seems fair to conclude that railways were not the primary cause of the crisis of

<sup>1</sup> The evidence of Thomas Tooke is valuable. He said (Question 5,305): "The great variations in railway prices and the speculation in shares and scrip had terminated at the close of 1845." The state of trade at the beginning of 1846 was very quiet and uniform. The failure in the autumn of the potato crop caused some apprehension, but no actual pressure (Question 5,303). He chiefly blamed the Bank Act (Question 5,309).

<sup>2</sup> It is Part III. of the same volume (1847-48, VIII.) as the House of Commons inquiry mentioned above.

1847, though railway speculation had undoubtedly been the chief feature of the boom ; and the bill that had subsequently to be paid in the shape of railway calls had an aggravating influence upon a shaken and depleted money market. It is only fair, however, to notice that Morrison did not agree that the Irish famine and the necessity of importing food had caused the crisis ; but insisted that it was railway speculation and the absence of Parliamentary control over railway schemes that had been responsible. "The railway world," he wrote, "have suffered largely from the distress which they were so instrumental in inflicting on others."<sup>1</sup>

A graphic picture of the boom and the depression which followed, is given by the following table,<sup>2</sup> which shows the relative position of leading railway shares and of consols :

AVERAGE MONTHLY PRICES.

Date.	Midland Railway (£100 paid up).	G.W.R. (Amount paid up in Brackets).	L. and N.W.R. (£100 paid up).	L. and S.W.R. (Amount paid up in Brackets).	Consols (3 per cent.).
1844, March	92 (Midland Counties)	111 (£75)	235 (London and Birmingham)	82 (£41 $\frac{1}{3}$ )	98
1844, September	108 (Midland)	144 ..	222 ..	81 ..	100
1845, March	129 ..	178 (£80)	232 ..	80 ..	100
1845, September	171 ..	170 ..	222 ..	80 ..	99
1846, March	143 ..	146 (£85)	219 ..	76 ..	96
1846, September	140 ..	146 ..	202 (L. and N.W.R.)	72 ..	96
1847, July	130 ..	146 (£100)	184 ..	134 (£100)	89
1848, January	109 ..	112 ..	150 ..	102 ..	87
1848, July	100 ..	95 ..	120 ..	92 ..	87
1848, December	85 ..	91 ..	124 ..	80 ..	87
1849, April	76 ..	95 ..	133 ..	76 ..	92

<sup>1</sup> Morrison's "Influence of English Railway Legislation," pp. 6-8, 78, 87-90. His remarks in these pages about fraudulent accounts correctly anticipated the exposure of Hudson's frauds.

<sup>2</sup> The figures are taken from the *Railway Times*, the *Bankers' Magazine* (April, 1844, onwards), and the "Statistical Abstract for

As to the amount of capital involved in the Railway Acts sanctioned during the mania,<sup>1</sup> the Acts of—

1844	required capital to the amount of £20,000,000
1845	" " " £59,000,000
1846	" " " £132,000,000

After 1846 the figures are not so important, as, though capital powers were granted, they frequently came to nothing, because the railways sanctioned were not constructed.

The following table<sup>2</sup> gives an idea of the rapid advance in railway construction:

Length of lines of railway in the United Kingdom open on—

December 31, 1842	... 1,857 miles	December 31, 1849	... 6,031 miles
" 1843	... 1,952 "	" 1850	... 6,621 "
" 1844	... 2,148 "	" 1851	... 6,890 "
" 1845	... 2,441 "	" 1852	... 7,336 "
" 1846	... 3,036 "	" 1853	... 7,698 "
" 1847	... 3,945 "	" 1854	... 8,954 "
" 1848	... 5,127 "		

These figures show a great increase from 1844 onwards in the annual mileage opened, but nevertheless they represent after 1847 only the pick of the schemes sanctioned by Parliament. 1848 was a remarkable year; nearly a third was then added to the existing railway mileage; but the Commissioners of Railways, in their Annual Report for that year pointed out that over 7,000 miles of authorized railways remained to be completed, and in very many cases would not be completed owing to the difficulties of obtaining capital.<sup>3</sup>

United Kingdom, 1840-1854" [reprint of 1870 (c. 144), Price of Consols, p. 75]. See also Hyde Clark's "Contributions on Railway Statistics" in the "Railway Register," vol. iii. (1846), pp. 461-63, for an examination of fluctuations in railway shares and the profits made by fortunate investors. Morrison also gives some interesting particulars of the depreciation of railway shares between 1845 and 1847 (*op. cit.*, pp. 48-49).

<sup>1</sup> See table on p. 24 above.

<sup>2</sup> "Statistical Abstract for United Kingdom," 1840-54, p. 84.

<sup>3</sup> Reports of Commissioners, 1849, XXVII. (1,061), ii., p. v.

In 1849 and 1850 they reported similarly, and showed that between May, 1848, and June, 1849, 84,000 men who had been employed in railway construction had lost their work.<sup>1</sup>

As to the railway calls, these varied from month to month ; in January, 1847, they amounted to £6,000,000, of which £4,500,000 was for English, the remainder for foreign railways. In February they amounted to £1,400,000 ; in March to £3,500,000, and the same in May ; in July to £5,300,000 ; in August to little more than £2,000,000 ; but double that sum for September and for October.<sup>2</sup> These figures, however, suggest that nothing like the total of £132,000,000 sanctioned in 1846 was raised in 1847 ; indeed, it is not to be expected that it would have been, for companies rarely exercise their full capital powers even in good times, since they prefer to keep some issuing powers in reserve. But no doubt the total calls added up to a large sum. The question we have to ask is this, How far did the absorption of capital in railway construction tend to lock up that capital ? It is commonly said that the railway crisis of 1847 resulted from the locking up of capital in railways which made no immediate return, and were for the time being unproductive.

This is a statement that we venture to suggest is incompatible with the facts of the case. In 1847, when members of Parliament began to accuse railway construction of absorbing capital, the *Railway Times*, professing surprise at the charge, very truly pointed out that, before ever the earthworks of a new railway were commenced, "no inconsiderable portion of this 'tied-up capital' has winged its flight into the pockets

<sup>1</sup> Reports of Commissioners, 1850, XXXI. (1,249), p. ix. Their Report for 1850 [1851, XXX. (1332), p. ix.] shows that the number of "navvies" employed had fallen by June, 1850, to 58,000—meaning the throwing out of work of over 40,000 more men.

<sup>2</sup> Morier Evans, *passim*, pp. 54-74.

of solicitors, agents, barristers, surveyors, engineers."<sup>1</sup> Mr. Glyn put the matter more authoritatively at the L. and N.W.R. meeting in February, 1848. He did not wish to argue the question how far the transfer of fluctuating capital to fixed capital in the course of railway enterprise had taken place, and whether this had been mischievous or otherwise to the commercial world. He left that to political economists, but he stated: "I assert that the operation of railway companies, by freeing an enormous amount of capital that was locked up in warehouses, shops, counting-houses, has done more to release the capital of the country than anything that has taken place for years." The blame for what had happened should, he said, "fall on those who, in 1845 and 1846, opened the door of the Legislature to projects designed simply for the purpose of competition . . . who forced us in defence . . . to undertake schemes which otherwise I take upon myself and my colleagues to say would never have entered into our heads."<sup>2</sup>

It may of course be argued that the capital diverted to railways was needed for the staple export industries of the country; that those industries were starved and could not produce the goods that ordinarily they would have produced, and that would have paid for the imports of corn. But there is no evidence of this,<sup>3</sup>

<sup>1</sup> *Railway Times*, May 15, 1847, p. 682. See also Hyde Clark's article, "The Railways and the Alarmists" ("Railway Register," vol. i., 1844-45, pp. 433-438), in which the economic question of diversion of capital to railways is clearly argued.

<sup>2</sup> *Railway Times*, February 19, 1848, p. 203. The same argument may be found in a pamphlet, "Railways, Past, Present, and Prospective," by R. M. Martin, 1849, pp. 42-49, which also contains facts and statistics that throw some light on the crisis of 1847.

<sup>3</sup> The argument is suggested by Dalhousie's speeches in the House of Lords in 1846. On April 7 he spoke of the "feverish state" of the public, the increase of speculation, and the unprecedented amount of capital involved. On April 23 he said other industries were complaining that so much capital was going into railways; but he further spoke of a 50 per cent. rise in the price of all railway materials. The

and in any case it is difficult to conceive that the export goods could suddenly have been increased in quantity to meet the "unprecedented importations of various descriptions of food." And, further, the facts that there was an abundance of money and that the bank-rate was unusually low even in 1846, appear to contradict the suggestion that the non-railway industries were handicapped by railway construction. George Hudson made an able speech<sup>1</sup> on this question in March, 1846, analyzing the railway expenditure, and seeking to show that "the absorption of capital in railway undertakings" was not a serious danger to the country. He stated that only 440 of the 800 Railway Bills of 1846 had satisfied standing orders. He estimated that the capital that would be required for these Bills was £100,000,000; about £10,000,000 had been lodged with the Bank of England as deposits of 10 per cent. on the Bills. About one-fifth of the total would be spent in the purchase of land; that is to say, some £20,000,000, so far from being "a tax upon the surplus capital of the country," was merely transferred from capitalists to landowners.<sup>2</sup> Then he estimated the contractors' profit at 10 per cent., anticipated a decrease of £2,000,000 to £3,000,000 in poor rates, and payments of from £7,000,000 to £9,000,000 for labour, and concluded that only about half of the total £100,000,000 involved could be "properly regarded as a tax on the surplus capital of the country." This was not a large amount, considering we had been raising some £80,000,000 a year in taxation but a generation earlier. Moreover, the country was deriving some £7,000,000 a year from the railways that were opened, and this sum would increase rapidly

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industries providing those materials cannot have complained (Hansard, vol. 85, pp. 652, 867).

<sup>1</sup> Hansard, vol. 84, pp. 1239-45.

<sup>2</sup> The original cost of the London and Birmingham Railway was about £45,000 per mile, of which £9,000 per mile went to land-owners. In the case of the Midland the figures under the same headings were about £38,000 and about £7,000 respectively.

as construction went on. Further, the railways had to a large extent rendered unnecessary the annual expenditure which had been made in the upkeep of canals, highways, and other works. "In fact," Hudson said, "unless we have a monetary crisis, not arising from railways, but from any drain to which the country may be liable, I am satisfied that we need not be under any alarm as to the amount which we are about to sanction in these great works." The only danger he foresaw was in the construction of useless lines. "A serious responsibility rested on Parliament to be careful to sanction only such lines as would prove remunerative and beneficial to the country."<sup>1</sup>

This was very sensible, and no doubt had Parliament been able to restrain the speculative movement and confine the attentions of the public to sound railway projects, the general suffering due to the crisis of 1847 would have been far less. As it was, the very abundance of available funds aggravated the trouble. When there is a large supply of money seeking investment, it is generally the case that unsound projects are put forward to take advantage of the enthusiastic confidence that reigns, and that oversanguine expectations are formed even of the sound projects.

Undoubtedly the railways were the great attraction for the investors of the mid forties, and they gathered much speculation and fraud around them. Many people bought shares who were unable to pay for them; they hoped to sell again shortly when the price had risen.<sup>2</sup> When prices ceased to rise, and calls

<sup>1</sup> Hudson's arguments were probably influenced by Hyde Clark's careful investigations in the "Railway Register." A detailed summary of these investigations is given in the *Railway Times*, October 10, 1846, p. 1466. Clark showed that the great non-railway industries had been increasing their scale of operations rather than reducing them.

<sup>2</sup> "Many thought they would make rapid fortunes, and transferred their capital from trade to railway speculations, not intending to

became due, they were often ruined. Lord Brougham was particularly vehement in his denunciations of railway gambling. He rejoiced, in 1846, that the end of the mania was approaching, "of the gambling disease and fever of speculation which had for the last two years been so productive of mischief to the country's best interest—among them the morals of the people."<sup>1</sup> In 1849 he reminded the House of Lords how he had denounced "this madness of gambling so long ago as 1838," and in moving for a return of railway shares and details of law charges, he made a sweeping denunciation of the attitude of Parliament : "My Lords, you enabled persons who were not makers of railways, but of railway plans and attorneys' bills, to go on without the least check on their proceedings." He concluded by questioning the honesty of the House of Commons : "I want above all things to know what was paid to members of Parliament in passing Bills."<sup>2</sup>

No doubt there were grave scandals ; those connected with some of George Hudson's railway companies

invest in them, but hoping to get it back speedily with large accumulations" (Lord Yarborough, in House of Lords, November 23, 1847 ; Hansard, vol. 95, p. 16). See also Hyde Clark's attack on gambling : "Reckless Dealings in Moonshine" ("Railway Register," vol. iii., 1846, pp. 112-114).

<sup>1</sup> Hansard, April 23, 1846, vol. 85, p. 880. It is instructive to compare with Brougham's attitude that of a House of Lords inquiry into compensation for land taken by railways (Reports, 1845, X., No. 420). The Report very practically states, "railways are eventually for the public gain, but the immediate motive for their construction is the interest of the speculators ;" they must not complain if they have to pay something more than the ordinary rental value of houses which are under-rented.

<sup>2</sup> Hansard, May 1, 1849. An instance of a bribe of £300 to a member of Parliament, paid to him through the Receiver-General of the Metropolitan Police, is recorded in 1836 (Accounts and Papers, 1845, XXXIX., No. 556). This and the corrupt use of his official position (in connection with railway promotion) by the solicitor of the Board of Ordnance may be found further discussed in the Report from the Select Committee on the S.E.R. Petition (1845, X., No. 480). The same volume contains an inquiry into the London and York Subscription List (No. 657). *Fraser's Magazine* (June, 1849), in an article on "Railways," speaks of "direct bribery of M.P.'s."

are well known, and moreover the very confidence that Hudson inspired materially added to the gambling spirit.<sup>1</sup> But all these evils were excrescences on the body of a sound movement ; they were the accidental results of railway promotion, not the essentials of it. They might have been prevented by Parliament, had Parliament been free to regulate the extension of communications, and inclined to do so. The reputable railway interest, the solid part of the movement as opposed to the attendant speculative parasites and greedy promoters, so far from producing the crisis of 1847, was a fellow sufferer in it, together with every other branch of industry and commerce.<sup>2</sup>

However, we do not wish to attempt a general history of the crisis. It has only been examined thus far, because the consolidation movement in the forties would not otherwise be intelligible. We may now conclude our long sojourn in that decade by asking how far the question of amalgamation was involved in, and affected by, the mania and the crisis.

Undoubtedly the railway enthusiasm of 1844 and 1845 facilitated amalgamation, and, as we have seen, the amalgamation movement went on very rapidly until 1847, when it ceased abruptly with the coming of financial depression. Undoubtedly, also, amalgamation formed part of the speculative movement, and there was much gambling in the shares of amalgamating companies, or companies which were rumoured to be about to make amalgamations. The Stock Exchange lists, however, do not reveal any special rise in the

<sup>1</sup> Three articles in *Fraser's Magazine* deal with the mania, and in particular with Hudson's promotions and frauds : June, 1849, "Railways, No. 1" ; July, 1849, "Railways, No. 2" ; and January, 1851, "Railway Companies and Railway Law."

<sup>2</sup> See a sensible article on the "monetary crisis" in the *Railway Times* of May 15, 1847, p. 683 ; also *Herapath's Railway and Commercial Journal*, March 13, 1847 ; "Railway Legislation and Government Railways," p. 361 : "The mania was not created by railways, but by a plethora of money."

shares of amalgamating companies, such as those controlled by Hudson, as contrasted with the non-amalgamating southern companies ; nor did Lord Brougham single out amalgamation as a special cause of gambling when he denounced the railway mania ; though Morrison severely criticized the whole system of " premium hunting "—that is, the issue to proprietors of new shares at par, when they could have been issued at a premium.<sup>1</sup> But one is a little inclined to expect that financial depression after 1847, and the rigid economy then introduced, would have favoured amalgamation. Probably some immediate economies might have been effected by consolidation, though generally the results would not be immediately apparent.

One very large amalgamation was discussed in 1848—that of the Great Western, North Western, and South Western Companies.<sup>2</sup> The three chairmen—Russell, Glyn, and Chaplin—met privately to discuss it, but nothing came of it. This proposal no doubt aimed at eliminating competition and reducing expenses ; it was estimated that Parliamentary contests between the three companies had cost little short of a million.<sup>3</sup> Generally speaking, however, there was little talk of amalgamation for economy's sake ;<sup>4</sup> the process was

<sup>1</sup> Morrison, "Influence of English Railway Legislation," pp. 88-91. See also pp. 414, 415, of an article on "Railway Management" in *Westminster Review*, vol. 53 (1850).

<sup>2</sup> *Railway Times*, 1848, November 4, p. 1173 ; December 2, p. 1269.

<sup>3</sup> *Railway Times*, November 4, 1848, p. 1173. See also a short article in *Fraser's Magazine* (October, 1848, p. 472), in which reference is made to the economizing aims of the three companies : "It means either smashing the traveller or grinding the employed." Fraser is very sarcastic about the "railway monarchs": "King Glyn communicates with King Chaplin . . . and Emperor Hudson. They call it a Congress. They can gain no more by fighting, so wish to try peace . . . to recover from the public some of the advantages filched from them while they were at war."

<sup>4</sup> See, however, *Railway Times*, November 15, 1845 : Letter on "General Amalgamation" from "Economicus," who urges the importance of general amalgamation of railways north of London and

too closely connected with capital issues, guarantees, and lavish dividends, and was probably regarded more as an aggressive or precautionary measure than as an economizing one. Cardwell's Committee of 1853 noticed that originally amalgamation had been sought principally on the ground of economy in the conduct of traffic. Latterly, however, they said: "Amalgamation has become not so much a question of economy in the management of the line as a matter of offensive and defensive policy in regard to the unsettled relations subsisting between different companies. As the practice of Parliamentary legislation stands at present, it is in the power of one rival company materially to affect the interest of the other; or a small number of speculators, with or without the encouragement of a rival, can injure the position of an established company by laying out a line in their neighbourhood, and so compel them to bring forward, in self-defence, and as part of their own system, schemes which, upon a wider review of the public advantage, it is probable that Parliament would have refused to sanction."<sup>1</sup>

But we suggest a further reason why amalgamation was not pressed after the crisis of 1847. In the feverish activity of the railway boom, most of the obvious amalgamations had been hurried through. Of the great systems of later days, only the North Eastern and the Great Eastern remained to be formed, in 1854 and 1862 respectively; contributions towards both of these fusions had been made in the forties,<sup>2</sup>

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south of Berwick. The thing would be done if Hudson, Houldsworth, and Glyn met. Should minor companies stand out, it would be economy to attract them by dividends of 10 per cent. See also *Railway Times*, February 12, 1848: Letter from Lawrence Heyworth, of the Midland, who deplores the outlay on competitive lines, and urges the necessity of amalgamation, "to preserve what will be the mere wreck of profits."

<sup>1</sup> Fifth Report, 1853, pp. 4, 5.

<sup>2</sup> York and Newcastle amalgamated with Newcastle and Berwick in 1847; Yarmouth and Norwich with Norwich and Brandon, 1845.

but it may be said of both that they were consolidations of a rather different type to those of the forties. It is dangerous to generalize on this point. There were amalgamations of competing lines as well as of throughout lines of communication in the forties ; the Midland and the North Western have an element of both types. But the amalgamation giving a whole district to one company is somewhat different, and belongs properly to the period after 1853 ; the three great examples of it are the North, the Great, and the South Eastern.

The suggestion we have made above may be criticized on the ground that it is hard to say what amalgamations are, and are not, obvious. From the geographical point of view it would seem that the process should logically be applied to any two companies that together form a through route. There are, however, considerations of railway politics to be taken into account. The proprietors of a railway company may be almost exclusively drawn from a certain district, and local feelings may be opposed to an amalgamation that is geographically obvious. The fact that some of our railways are centred at York, Manchester, or Derby, has helped to keep their finances distinct from companies whose headquarters are in London. General considerations of balance of power have also tended to preserve independent entities, spite of geographical conditions, in railway politics as in those of States.

But there had come into existence in 1842 an establishment which gave a practical guidance to the promoters of amalgamation, and supplied material evidence of the extent to which certain railways possessed interests in common. This was the Railway Clearing House. There is a most regrettable lack of historical records of this famous establishment, and what we have to say of its relation to railway consolidation in the forties is largely supposition, though there are a few facts upon which to build.

The Railway Clearing House, modelled on the

Bankers' Clearing House that had come into existence some seventy years earlier, probably originated in a suggestion of Robert Stephenson to Mr. Glyn.<sup>1</sup> Hudson, Captain Huish, and Captain Laws were also keen supporters of the project when it was first proposed, but it was Mr. Kenneth Morrison, auditor of the London and Birmingham Company, who worked out the details as manager of the establishment.<sup>2</sup> The primary object of the Clearing House was to facilitate the sending through of carriages and trucks from one system to another, by supplying for the companies concerned a neutral office in which accounts of through transactions could be kept and the balances due from one company to another adjusted. In a pamphlet of 1846 in which the Clearing House gave an account of its work, it stated: "The tendency of the Clearing arrangements is to give to all the connected railways of Great Britain, as far as regards the working of the through traffic, the character of one concern conducted on a uniform system."<sup>3</sup> That has remained the chief work of the Clearing House to the present day, but as it has developed and extended, the importance and the utility of the establishment have increased and it has become a sort of federal council for the English railway

<sup>1</sup> *Railway Times*, November 5, 1842, p. 1148, states this positively. The *Times* of January 30, February 3, and February 9, 1892, contained correspondence on the question (in connection with the jubilee of the R.C.H.), in which it was stated that Allport, as manager of the Birmingham and Derby, first thought of the system. Watkin demurred to this.

<sup>2</sup> *Railway Times*, October 16, 1847, p. 1319; also November 5, 1842, p. 1148, and November 19, 1842, p. 1195.

<sup>3</sup> "The Origin and Results of the Clearing System," 1846. A return at the end of the pamphlet is signed by K. Morrison, manager of the Clearing House. The pamphlet, which is the one valuable source for the early history of the system, was published in order to remove erroneous impressions caused by evidence given before the Gauge Commission. Saunders, of the G.W.R., had asserted that the unloading and reloading of trucks, on account of break of gauge, was equally common on narrow gauge lines where there was no break. The pamphlet contradicts this aspersion on the clearing system.

companies, representing most successfully the common interests of the railways, and forming, as Cohn points out, a marked contrast to the Board of Trade which stands (without much success) for the common duties of the companies to the public.<sup>1</sup>

Now, in a way, it may be said that the Clearing House has made amalgamation less necessary, because it has replaced friction and obstruction by a smooth and equitable means of interchanging traffic. But it must be remembered that the establishment cannot compel warring companies to work in harmony ; its function is to record and account for the traffic that is actually exchanged,<sup>2</sup> whether the times of exchanging are suitably planned or are deliberately obstructionist, and though the Clearing House facilitates exchange, it cannot effect the economy or unity which results from consolidation. The Clearing House conferences, however, bring together the officers of rival companies, and give them opportunities for settling their differences, and the system undoubtedly encourages combination where companies are already working in friendly co-operation ; in the first place because it shows the officers exactly what their transactions with each other amount to, and therefore what they may gain by consolidation, and secondly because the very facilities for through traffic lead to its increase, and therefore strengthen the case for union. The Railway Clearing House, in fact, is an establishment conducted by the railway companies, with the object of mitigating the evils of their independent constitutions. It does the work so well, yet suicidally, that companies tend to merge their independence and by amalgamating to

<sup>1</sup> Cohn, vol. ii., p. 73 ; also vol. i., pp. 261-262. He makes the mistake of dating the Clearing House from 1847, misled by the Report on Amalgamation, 1872, p. x.

<sup>2</sup> An interesting account in some detail of the working of the clearing system is given by E. R. McDermott, "Railways," pp. 108-149.

deprive the Clearing House of the work it has done for them.<sup>1</sup>

We wish to suggest that something of this sort occurred in the forties ; that the existence of the Clearing House from 1842 onwards supplied evidence of the advantages that would result from certain amalgamations, and tended to accelerate progress. The establishment attracted little public notice, but it was a success from the start, was legally secured and strengthened by the Act of 1850,<sup>2</sup> and had then a membership of forty-five companies, which comprised all the railways of any importance except the Great Western, South Western, Brighton and South Eastern.<sup>3</sup> The number had increased to sixty-five railway companies by 1853.<sup>4</sup> In that year a witness before Cardwell's Committee declared that, if it were made compulsory on all railway companies to be parties in

<sup>1</sup> For reductions in Clearing House staff as the result of amalgamation, see Report of Departmental Committee on Railway Agreements, etc., 1911, p. 36 ; and evidence, 17, 465 ; 16, 962 ; 11, 121.

<sup>2</sup> Act for Regulating Legal Proceedings by or against the Committee of Railway Companies associated under the Railway Clearing System (13 and 14 Vict., c. 33). The text is given, Appendix O, p. 905, Report on Amalgamation, 1872.

<sup>3</sup> Lardner's "Railway Economy," chap. ix., "The Clearing House."

<sup>4</sup> Cardwell Committee, 1853 ; evidence of Captain Huish, Question 1,227. Huish was asked by Wilson Patten (Question 1,229), "What is meant by the Clearing House?" Cohn (vol. ii., p. 73) says this shows how little progress the R.C.H. had made up to 1853. I think it shows that for once Wilson Patten was lacking in information. Huish's evidence (Question 1,227) as to arbitration work done through the R.C.H. is proof of progress. Further, Appendix 5 of Cardwell's Third Report contains a useful inquiry made by a Clearing House Committee of General Managers, with Huish as chairman. The Committee reported in favour of a certain system of communication between guards and drivers. They pointed out that, unless the system were adopted by all companies that interchanged railway stock, it would be useless ; but they did not suggest that there was any difficulty in securing this general adoption through the Clearing House. The Committee consisted of seven officers from the L. and N.W.R., G.N.R., L. and Y., M.S. and L., Midland, North Staffs, and York, Newcastle and Berwick.

the Clearing House, nine-tenths of the difficulties between railways would be at an end.<sup>1</sup>

Dr. Lardner, writing in 1850, was so impressed with the possibilities of the system, that he contemplated the ultimate growth of the Clearing House "into an establishment for the maintenance of a general locomotive and carrying stock for the use of all the railways, to be supported by the railways in common, and charged to them in the proportion in which they use it."<sup>2</sup>

Of the four companies mentioned above, as non-members of the Clearing House, the G.W.R. was naturally excluded by its exceptional gauge, and the other three were not prominent in amalgamation.<sup>3</sup> On the other hand, the nine companies<sup>4</sup> that formed the Railway Clearing House in 1842 were so prominent that they all disappeared in various fusions. They were :

Midland Counties	}	became the Midland, 1844.
North Midland		
Birmingham and Derby		
London and Birmingham		part of the L. and N.W.R., 1846.
Manchester and Leeds		part of the L. and Y., 1847.
Leeds and Selby	}	after intermediate amalgamations became part of N.E.R., 1854.
York and North Midland		
Hull and Selby		
Great North of England		

A return of 1845<sup>5</sup> showed the following ten additions to the Clearing House :

Newcastle and Darlington.	Grand Junction.
Stockton and Darlington.	North Union.
Stockton and Hartlepool.	Chester and Birkenhead.
Birmingham and Gloucester.	Lancaster and Preston.
Manchester and Birmingham.	Preston and Wyre.

<sup>1</sup> Evidence of Mr. R. Roy, Question 4,354.

<sup>2</sup> "Railway Economy," p. 152.

<sup>3</sup> See above, p. 32, for the absence of amalgamations on the part of the South Western, Brighton, and South Eastern.

<sup>4</sup> *Railway Official Gazette*, January, 1892.

<sup>5</sup> The return is attached to the pamphlet mentioned above, p. 146, note 1. The return was reissued by the Railway Clearing House on the occasion of its jubilee in 1892. It states that in 1845 the asso-

These companies again have disappeared, not all of them in the forties, for the Stockton and Darlington remained independent of the North Eastern until 1862, but many of them were involved in the great fusions of the forties.

It might be argued that they joined the Clearing House because they were so closely connected—in fact, that their amalgamations were a foregone conclusion. It is more reasonable to suppose that membership of the Clearing House strengthened their common ties, and hurried on their consolidation; that membership and amalgamation were related facts and not mere coincidence.

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ciated companies booked 517,888 passengers through; the passengers travelled 75,783,149 miles. The average mileage of each passenger was 146; the average length of railway in the Clearing House was 41—each passenger therefore travelled over nearly four separate railways. Some other statistics are given by the *Times*, January 19, 1869, and January 26, 1892, showing that the R.C.H. dealt with, in 1847, traffic worth £800,000; in 1868, £11,000,000; in 1891, over £22,000,000.

## CHAPTER VIII

### CARDWELL'S COMMITTEE OF 1853, AND THE TRAFFIC ACT OF 1854

WE have seen that railway promotion was almost entirely suspended in the years following the crisis of 1847. The Act of 1850, to facilitate the Abandonment of Railways and the Dissolution of Railway Companies,<sup>1</sup> bears witness to the depression of the time, as does also the fact that about 2,000 miles, involving more than £40,000,000 of capital, were abandoned without the consent of Parliament.<sup>2</sup> But by 1852 the worst was over and the spirit of railway enterprise was reviving. Some large amalgamations were proposed. Among them were schemes for uniting the South Western and the Brighton Companies, together owning 400 miles of line; the three Northern Companies (622 miles) which were actually amalgamated as the North Eastern Railway in 1854, and most ambitious of all for uniting the Midland and the North Staffordshire with the North Western, each of them swollen by smaller fusions.<sup>3</sup>

<sup>1</sup> 13 and 14 Vict., c. 83.

<sup>2</sup> Fourth Report, Select Committee on Railway and Canal Bills—*i.e.*, Cardwell's Committee—1853, p. 6. Striking evidence of depreciation is furnished by a table put in by Mr. Macgregor [Appendix 5 (F); also evidence, Question 4, 154], which showed that the railway capital paid up between 1845 and 1853 (£54,500,000) stood in the market at but a third of its nominal value.

<sup>3</sup> Appendix 8 of Third Report of Cardwell's Committee; also Appendix A, Report on Amalgamation, 1872.

This consolidation would have formed a company owning over 200 miles of canals and 1,241 miles of railway (one-sixth of the total mileage open in Great Britain and Ireland), and with a raised capital of £54,500,000, and an income of £4,000,000 ; the last two figures represented one-fourth of the capital and income respectively of the railways of the country.<sup>1</sup> The figures themselves seem small nowadays,<sup>2</sup> but the proportions are large ; they indicate the powerful position which the amalgamated company would have held among the other companies.

Lord Redesdale, chairman of Committees in the House of Lords, asked the Government in November, 1852, what regulations they meant to impose on railways. He knew that people would say regulation diminished responsibility, but as many of the coming Bills would be for extensive amalgamations, partaking of the nature of monopolies, interference was necessary. He was informed that the Government would move for a Select Committee.<sup>3</sup> On the same day Labouchere asked Mr. Henley,<sup>4</sup> the President of the Board of Trade in Lord Derby's short administration, whether he had considered the question, and Henley spoke of a committee. He made a few remarks on December 6,<sup>5</sup> when moving for the appointment of this committee ; 150 Bills were coming on, twenty of them were for amalgamations, some of these larger than the House had ever had to deal with before. It was hardly safe to send each Bill to a Private Bill Committee of five members without first establishing some general views for their guidance.

<sup>1</sup> Evidence of Captain J. L. A. Simmons, of the Board of Trade. Cardwell's Committee, 1853 (Question 2,340).

<sup>2</sup> The Fifth Report stated that the "railway property in Great Britain at the end of 1851 was £248,240,897 ; the amount received for passenger traffic in 1851 was £7,940,764—goods traffic, £7,056,695 ; number of persons directly employed in existing companies (June, 1852), 67,601 ; in constructing new railways, 35,935" (p. 5).

<sup>3</sup> Hansard, vol. 123, p. 231.

<sup>4</sup> *Ibid.*, p. 1048.

<sup>5</sup> *Ibid.*, p. 245.

Hudson, disgraced in the railway world, but still sitting in Parliament, deprecated interference, and Gladstone spoke bitterly. Peel's Government, he said, had made a great effort in 1844 and 1845 to solve the difficulties of railway legislation. The experience of the years since had made the public regret that Peel's scheme had not been followed up. "They had seen enormous evils resulting from the incapacity . . . or the cowardice of Parliament in dealing with the subject."

The Select Committee, moved for by Henley, was then appointed, "to consider the principle of Amalgamation as applied to Railway, or Railway and Canal, Bills about to be brought under the consideration of Parliament, and to consider the principles which ought to guide the House in Railway legislation." Twelve members were nominated, Henley being chairman; but, as Lord Derby's Government went out in December, 1852, Henley soon gave place to Cardwell—President of the Board of Trade in the New Aberdeen Ministry—who joined the Committee in February, 1853. The Committee then contained five men who were at some period Presidents of the Board of Trade—Henley, Cardwell, Labouchere, Gladstone, Bright. Other members well known in railway affairs were Wilson Patten, Strutt, and Evelyn Denison, but there were no special representatives of the railway companies.<sup>1</sup>

It is worth noticing that Gladstone did not attend any of the thirty-five sittings at which the Committee

<sup>1</sup> When the Committee were nominated on December 9, 1852 (Hansard, vol. 123, p. 1202), Mr. Macgregor proposed to add Robert Stephenson and two other railway directors, but the House did not agree. "Bradshaw's Manual" for 1853 (List of Directors in Parliament) shows that none of the Committee held railway directorships (except Gladstone, who was on the Clydesdale Railway Guaranteed Company). Cardwell had been a director of the S.E.R. six years earlier. The *Railway Times* (April 16, 1853), in an article on "Amalgamation and Jobbing," makes scurrilous accusations of land speculation in connection with railways against both Henley and Cardwell.

took evidence between December, 1852, and June, 1853, and he was only present at two out of the fourteen meetings when the Committee deliberated.<sup>1</sup>

Among the witnesses examined by the Committee were Samuel Laing, M.P., the late Secretary of the Railway Department, now chairman of the Brighton Railway; Edmund Denison, M.P., chairman of the G.N.R.; General Anson, M.P., chairman of the L. and N.W.R.; James Macgregor, M.P., chairman of the S.E.R.; Robert Stephenson, M.P., Sir William Cubitt, and Joseph Locke, M.P.; five distinguished railway officers—Seymour Clarke of the G.N.R., Captain Huish of the L. and N.W.R., Saunders of the G.W.R., Captain Laws of the L. and Y., James Allport of the M.S. and L. (and later of the Midland); also Captain Arabin Simmons of the Board of Trade; Rowland Hill, Secretary to the Postmaster-General; Robert Baxter, "the eminent Railway Solicitor,"<sup>2</sup> and other lawyers and agents.

The Committee issued five Reports: the First, in December, 1852, briefly recommended the House to beware of admitting into new Bills provisions that repealed or extended former Acts, the Second and Third merely presented evidence.<sup>3</sup>

The Fourth Report of April 8, 1853, is important. The Committee were opposed to the principle of amalgamation. On February 14 they had resolved, and Cardwell had on the following day successfully

<sup>1</sup> See Lists of Committee at beginning of each day's evidence, and Proceedings of the Select Committee, Fifth Report, pp. 22-28. The figures above give some idea of the diligence of the Committee. Though appointed in December, 1852, they did not do much until Cardwell became chairman in February, 1853, and their forty-nine meetings were practically crowded into five months. In February they sat on the 11th, 14th, 16th, 18th, 21st, 23rd, 25th, and 28th.

<sup>2</sup> Fifth Report, p. 7.

<sup>3</sup> February 28 and March 18, 1853. Some of the Appendices to the Third Report, dealing with accidents and communication between guards and drivers, are interesting.

moved in the House, that Railway Bills containing amalgamation powers should not be read a second time before March 14.<sup>1</sup> This temporary suspension of the amalgamation schemes became absolute when, on April 15, Cardwell moved<sup>2</sup> the first resolution of the Fourth Report—"That no Railway or Canal Bill, containing any powers of amalgamation, purchase, lease, working arrangement, or other combination of interest between different Companies heretofore incorporated, be read a second time"—unless the promoters agreed to strike out all such powers.<sup>3</sup>

This was a strong action. It marks the change from the complaisance of the forties to the hostility with which amalgamation has since generally been regarded. It killed the Midland and North Western Companies' proposed alliance, and many smaller proposals for amalgamation, though the York, Newcastle and Berwick and their allies came forward again in 1854, and carried the fusion that formed the North Eastern Railway.<sup>4</sup>

To appreciate the position of the Committee it is necessary to read together with the Fourth Report both the larger Fifth Report of July 8 and some of the principal evidence. The mere hanging up of all amalgamation Bills in 1853 was but a momentary palliative; some constructive policy had to be suggested. This the Committee did in a series of eleven recommendations at the end of their Fifth Report. The mode of dealing with Railway Bills was to be altered to secure a more permanent and comprehensive policy, and the line of policy was suggested thus : "Working arrangements between different companies

<sup>1</sup> Proceedings of Committee, Fifth Report, p. 23; Hansard, vol. 124, p. 123. The Committee afterwards extended the period to April 11.

<sup>2</sup> Hansard, vol. 125, p. 1202.

<sup>3</sup> The Proceedings of the Committee show that the words "heretofore incorporated" were an addition to their original resolution. These words were inserted to allow the progress of new schemes.

<sup>4</sup> A list in Appendix A, Report on Amalgamation, 1872, shows the fate of the Bills of 1853.

for the regulation of traffic and the division of profits, should be sanctioned, under proper conditions and for limited periods, but amalgamation should not be sanctioned except in minor or special cases,"<sup>1</sup> where the proposed new Standing Committee of the Commons were of opinion that they made for economy and public advantage.

This was the most drastic recommendation in connection with amalgamation ever made by a Parliamentary Committee. Hitherto it had been assumed that Parliament would sanction almost anything proposed. Now in 1853 the schemes put forward, big and small alike, were suspended, and the Committee that had recommended this action proceeded to advise that in all subsequent years the principle of amalgamation should be rejected ; the complete fusion of one company in another was to cease ; instead Parliament should sanction co-operative arrangements between independent, unfused companies, but under proper conditions and for limited periods only ; a Permanent Committee of Parliament should watch the whole field of railway enterprise and control it on a settled principle.

What would have been the outcome of such a system, it is unnecessary to speculate here. We shall see that the views of Cardwell's Committee did not prevail in Parliament ; we have already noticed that the North Eastern Railway consolidation, suspended in 1853, was effected in the following year, and the North Eastern amalgamation is well known as the best example of a territorial monopoly in England.

However, the view of Cardwell's Committee is worth examining. It was based on the belief that the English railways tended towards monopoly, after having been extravagantly built up by wasteful competition, and by fickle, uncertain and costly Parliamentary procedure..

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<sup>1</sup> Fifth Report, pp. 20, 21.

On the last point the Committee were severely critical. "It has been," they said, "the practice of Parliament to deal with each particular Bill as constituting a separate issue, the merits of which are to be decided by separate inquiry, before a tribunal appointed only for that object ;<sup>1</sup> the result has been that the legislation of Parliament is in the highest degree uncertain, and the preparations of the rival companies for Parliamentary conflict are in the same proportion speculative and costly.<sup>2</sup> . . . It is no disparagement of the private Committees of the House to say that their decisions are regarded out of doors as fortuitous and inconsistent with each other." The gauge question was then quoted as the most glaring case of inconsistency. Summing up, the Committee said : " In a country so rapidly advancing in prosperity as England, and in respect of a system so new, and where so much is still matter of progress and of experience, and where such great interests are involved and so much ability and enterprise are constantly at work, it is futile to lay down general rules in words, unless provision be made for the steady application of those rules to the varying circumstances. Hence all the most intelligent witnesses whom your Committee have examined have pointed to some tribunal which might be invested by Parliament with so high a degree of authority as to give weight and stability to its decisions," etc.<sup>3</sup> As to the waste of competition it was estimated that £70,000,000 had been unnecessarily spent in obtaining Parliamentary

<sup>1</sup> E.g., Stephenson's evidence, Question 976 : "Men more competent than five members of Parliament chosen somewhat haphazard." For further comments on the Private Bill System, see above, pp. 154, 155.

<sup>2</sup> Herbert Spencer's essay, "Railway Morals and Railway Policy" (*Edinburgh Review*, October, 1854. Reprinted in his "Essays, Scientific, Political, and Speculative," 1858), strongly condemns the practices of railway directors, lawyers, agents, etc. ; his facts are taken from the Cardwell Report, to which there are many references.

<sup>3</sup> All quoted from Fifth Report, pp. 12-13.

sanction for, and in constructing, railways now in existence, and in opposing rival schemes.<sup>1</sup>

The Committee had to exercise a good deal of judgment, for much of the evidence put before them was coloured by the competitive feeling between the different companies represented. The North Western and the Great Western, for instance, were bitterly opposed on the question of railway extensions between Birmingham, Wolverhampton, Shrewsbury, and Chester,<sup>2</sup> and among the Bills suspended in 1853 were the rival projects of these two companies for absorbing the Shrewsbury and Birmingham and the Shrewsbury and Chester Companies. As a matter of fact, in spite of the Committee's opposition to amalgamation, these two companies were allowed to pass in 1854 to the Great Western. Then the Great Northern were especially hostile to the proposed amalgamation of the Midland and the North Western.<sup>3</sup> Again, Saunders of the Great Western urged that if his Company were allowed to extend as they wished, there might be advantageous competition between them and the North Western, while the difference of gauge would secure the public against a combination of the two companies.<sup>4</sup> True, he was honest enough to admit that, though he

<sup>1</sup> Fifth Report, p. 5. The estimate was Laing's. Stephenson agreed (Question 1091) that the sum "very inadequately represented the loss in convenience, etc., to the public from Parliamentary carelessness in legislating for railways."

<sup>2</sup> There is much interesting evidence on the struggle between the two companies for these lines. See joint evidence of J. J. Peile and G. Knox (who represented the Shrewsbury Company) May 2, 1853, and the Agreement (Appendix 4) between the North Western and the Shrewsbury and Birmingham. Knox gives a frank statement of the opportunist policy of a small company which must get itself amalgamated to one or other of the big companies (Question 3948; also 3856).

<sup>3</sup> See E. Denison's evidence, March 9, 1853.

<sup>4</sup> Question 1393; see also 1300, for his criticisms of North Western, and much of the evidence of Saunders and of Huish, for the differences between G.W.R. and L. and N.W.R.

objected to monopoly, yet, as a servant of the Great Western, he was not blind to the advantages of alliance with the North Western ; but still his evidence was largely an argument in favour of competition. He approved of companies specifying their rates, and then competing in facilities and accommodation.<sup>1</sup> This, he considered, "a healthy attempt to excel ;" his opponent Captain Huish of the North Western was critical as to the healthiness of any kind of competition, and suggested that it was difficult to maintain specified rates : "we have always felt that the zeal of servants might possibly occasionally cause them to deviate from rates."<sup>2</sup>

Saunders' views were also opposed to those of Allport, who favoured district amalgamations taking in the adjoining small companies.<sup>3</sup> Against this Saunders argued that large amalgamations monopolizing districts should be prevented, while the union of continuous lines should be encouraged as a means by which the independence of one district from another might be maintained. He put his case thus : "If the Great Northern on one side of England, the North Western in the centre, and the Great Western on the west side, with the Midland line crossing and intersecting all three systems, are kept independent of each other, and each is prohibited from dividing or selling the exclusion of traffic to one another, you will compel those four companies to work heartily for their respective proprietors, enlarging their accommodation."<sup>4</sup>

Stephenson, however, spoke against competition, and said that if the struggle between the North Western and Great Western continued, a large property now yielding  $5\frac{1}{2}$  per cent. would probably in ten years be reduced to 3 per cent.<sup>5</sup>

Stephenson's dictum, "Where combination is possible,

<sup>1</sup> Question 1317.

<sup>3</sup> Question 4224.

<sup>5</sup> Fifth Report, p. 3.

<sup>2</sup> Questions 1425, 1428.

<sup>4</sup> Question 1320.

competition is impossible," appealed strongly to the Committee. He put before them what appears now a most chimerical scheme : amalgamating companies were to submit to control and revision of tariffs under the percentage arrangement of Gladstone's Act, which, however, would be reduced to 6 per cent. The capital accounts of the companies would be closed, and "in a few years we should have the whole of the railways in the kingdom consolidated."<sup>1</sup>

The Committee did not discuss this scheme, but they stated decidedly their belief that combination must ultimately result from temporary rivalry. The question of amalgamation involved "by no remote consequences the union of all the railway interests of the kingdom in one body, or at any rate in a small number of great companies."<sup>2</sup> In Lancashire and Yorkshire, a district not the least sensitive to the advantages of free competition, no such freedom is practically enjoyed as regards communication by railways ; between Liverpool and Manchester, where five different modes of transit, more or less competing with each other in their inception, have been established—viz., the Liverpool and Manchester Railway, the Lancashire and Yorkshire Railways, the East Lancashire Railways, the Bridgewater Canal, the Old River Trust—all five have, more or less, a common understanding with each other, and no rivalry exists bearing any analogy to the keen competition of private individuals contending in the same trade. . . . It is natural for traders to compete where the opportunity is unlimited for new rivals to enter the field from time to time ; it is quite as natural for traders to combine as soon as the whole number of possible competitors may be ascertained and limited."<sup>3</sup>

<sup>1</sup> Evidence, Questions 885, 898-904.

<sup>2</sup> See Edmund Denison's evidence, Questions 2043-44 ; if the amalgamation of the North Western took place, it would be impossible for the Great Northern long to remain independent, and the lines north of York must also come under the control of the amalgamated companies ; virtually it meant general amalgamation.

<sup>3</sup> Fourth Report, p. 4.

Yet the Committee sought to prevent this natural process from being carried to its logical conclusion in complete fusions. Their view was that "actual amalgamation under the authority of Parliament" gave so much additional security and advantage compared with that obtained from voluntary arrangements between companies, that Parliament should be careful not to part with the control it possessed. By retaining the power of conceding amalgamation, Parliament could, if necessary, exert itself to secure great public advantages. Amalgamation once conceded, no change could be made, "if at any subsequent time it became desirable again to divide the companies. But if working arrangements, not now valid in law, shall be sanctioned by Parliament, under definite conditions, and for limited periods, capable of being renewed by the same authority . . . it will be in the power of the companies to contract alliances useful for the conduct of traffic, while it will be open to Parliament to interfere for the prevention of permanent public mischief."<sup>1</sup>

The noticeable point is that Cardwell's Committee, unlike other Committees, so far from disliking private arrangements between companies, and feeling that, if they forbade amalgamation they would drive combination underground, deliberately wished to encourage the informal species of combination, and to repress the complete legislative amalgamation.

The Committee had many examples of working arrangements put before them, of which the most notable was the pooling or division of traffic arranged by Gladstone as arbitrator in 1851 between the North

<sup>1</sup> Fifth Report, p. 6. For the validity of working arrangements, see the Report on Amalgamation, 1872, p. xxvi, and the Report of Board of Trade Railway Conference, 1909, Appendix 6, p. 161, where it is agreed that the type of arrangement which Cardwell's Committee had in view, an agreement giving the working company exclusive possession for a term of years, is invalid in the absence of specific statutory authority. See also W. A. Robertson, "Combination among Railway Companies," pp. 17, and 41-51.

Western and the Great Northern "by which the whole country from London to Edinburgh and Glasgow is divided according to a fixed plan, and rivalry between these two trunk lines of central communication is, to a great extent, extinguished."<sup>1</sup>

One certainly must admire the boldness and originality of Cardwell's Committee. Their recommendations for the checking of amalgamation came rather too late ; it is true, as they said, that in 1853 "the system of railway communication had not attained its full maturity, and much was yet to be learnt"; but the position had changed very rapidly since 1845. Had amalgamation then been suspended, and some kind of probationary working arrangements introduced instead, many misalliances might have been prevented, and as the result of a trial of co-operative working many mistakes might have been avoided.

But in any case, the recommendations of 1853 had little effect, as we shall see from the history of railways in the succeeding years down to 1871. During that period the railway world was far from stationary, and Parliament handled many important railway questions, but there was little of the turmoil of previous years, and time solved many railway problems which had agitated the country in the forties. *Laissez faire* was now far more than at any other period the prevailing attitude of Ministers towards railway questions. The Government constantly pleaded its anxiety to avoid weakening the railway companies' responsibility, when Mr. Bentinck, year after year, asked his questions about the desirability of legislating in the interests of passengers' safety and in pursuance of various reports upon railway accidents.<sup>2</sup>

<sup>1</sup> Fourth Report, p. 4. Clarke put in a Memorandum embodying Gladstone's award in his evidence, Question 509, and described it, Question 469. See also Grinling, pp. 99, 100.

<sup>2</sup> Cohn, vol. i., pp. 282, 283, 288. Cohn's picture of the tranquillity between 1853 and 1872 is perhaps a little exaggerated. Committees

The best known features of the period are the Railway and Canal Traffic Act of 1854, and the Royal Commission of 1867. For our purpose chief interest attaches to the amalgamations of a few companies which had lagged behind in the preceding era of consolidation, and to the attempt made by the Act of 1854 to establish a satisfactory railway tribunal. The period was also one in which working arrangements between companies played a prominent part. We shall come back to that point and to the amalgamations effected in these years after discussing the intentions and accomplishments of the Act of 1854, and the opinion during the following years on the question of a railway tribunal. It is this question that provides the connecting link between the forties and the legislation of 1873, which established the Railway Commission.

On the whole it must be admitted that Cardwell failed in his attempts to introduce through the Act of 1854—commonly known as “Cardwell’s Act”—the policy recommended by his Committee of 1853. The failure of Parliament to appreciate the position, the objection both of Parliament and of the railway interest to a strengthening of the Board of Trade, and the somewhat high-handed and untactful manner in which Cardwell himself managed the Bill, combined to rob it of most of its value. But something was achieved, and some progress made in the work of regulating the railways without altering their character as private enterprises. The ideas of 1844, which oscillated between competition and state ownership, were replaced by a clearer perception of the position of a government towards a private system. A precedent of great importance was set up, for the legislation of 1854 at least set out the duties of the railways to the public, and

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and legislation upon railway matters are found in almost every year of the period. But the lack of interest taken in these, and the absence of debate upon many of the measures, afford a general justification for his statement.

appointed a court where redress could be obtained if they neglected those duties. It was this that had been obviously becoming more necessary every year when once the railway system had become a connected one in the forties ; it was the improvement and extension of the principles first laid down in 1854 that formed the main features of the subsequent legislation of 1873 and 1888.

Cardwell's Committee had been appointed on the special question of amalgamation. Cardwell constantly appealed to the Reports of the Committee when he was introducing the Bill which became the Railway and Canal Traffic Act. Yet the Act does not mention amalgamation. Its bearing upon combination generally is therefore only indirect, and our chief interest centres not so much in what the Act accomplished as in what it failed to achieve.

The Act was a short one of eight sections. Of these the second was much the most important. It enunciated more fully than had been done before some essential principles of satisfactory transport ; it ordered the companies to give facilities for traffic, and it forbade discrimination. As to the first point, Section 2 enacted that every railway company shall afford all reasonable facilities for the receiving and forwarding and delivering of traffic, and that all companies having railways or canals which form part of a continuous line of communication or which have stations or wharfs near each other, shall afford due facilities for each other's traffic, so that no obstruction and all reasonable accommodation may be offered to the public desirous of using such a continuous line of communication.

As to the second point, discrimination, or "preference," has been the central feature of English railway law—and litigation—since 1854. The principle had been embodied tentatively in the Railway Clauses Act of 1845<sup>1</sup> in a section which permitted companies to

<sup>1</sup> 8 and 9 Vict., c. 20, sec. 90.

vary their tolls provided that all such tolls were "at all times charged equally and after the same rate" in respect of all traffic that was "of the same description." This was the "famous equality clause,"<sup>1</sup> but it was of so little practical importance that it was only once discussed—and then only vaguely—in the voluminous evidence taken by Cardwell's Committee.<sup>2</sup> The second section of the Act of 1854 defined the principle more closely in these words : "No company shall make or give any undue or unreasonable preference or advantage to or in favour of any particular person or company, or any particular description of traffic, in any respect whatsoever."<sup>3</sup>

The third section gave to the Court of Common Pleas<sup>4</sup> a special jurisdiction to deal with complaints of any violation of the Act. Private individuals might apply by motion or summons: the Attorney-General could do so upon the certificate of the Board of Trade alleging any such violation. Power was given to the Court to issue a writ restraining companies which infringed the Act, and to impose a penalty of not more than £200 a day for neglect of the injunction.

The fourth section empowered the Judges "to make all such general rules and orders" as they might think fit for the purpose of carrying the Act into execution before the Courts.

The seventh clause, dealing with the liability of the

<sup>1</sup> W. Temple Franks, "Lectures on History of Traffic Legislation," *Railway News*, November 16, 1907, p. 839.

<sup>2</sup> Evidence of J. Locke, M.P., Questions 2990-94.

<sup>3</sup> For a detailed examination of the principle of undue preference, see "The Law of Railways," by J. H. Balfour Browne and H. S. Theobald (fourth edition, 1911), pp. 333 and 425; also "The Law of Railways," by Leonard Shelford (fourth edition, 1869), vol. i., pp. 167-74, where abstracts of the cases of undue preference are given.

<sup>4</sup> In England and Ireland ; the Court of Session in Scotland. The rules made by the Court of Common Pleas for regulating proceedings under this Act are given in Shelford's "Law of Railways," vol. i., p. 195.

companies for goods and animals carried,<sup>1</sup> was no part of the original measure, with which it had little connection, but was added by the House of Lords.<sup>2</sup>

The Act has been described as "a measure valuable in fact and most important in its scope and intention."<sup>3</sup> One may demur as to the first point. As to the second one, Henley's criticism in the House of Commons of the word "reasonable" drew from Cardwell the reply<sup>4</sup> that it came "from the earliest period of black letter"; it was always used, he said, to define the obligation of carriers, which the Bill sought to apply to the altered state of things on railways. Certainly the attempt to apply the principle of "reasonableness," and the setting up a Court with discretionary powers of deciding upon that principle, have had far-reaching results.<sup>5</sup> But it is obvious that the Act has not that important bearing upon the question of combination which might have been expected in a measure introduced as a result of the recommendations of Cardwell's Committee. Cardwell's own explanation<sup>6</sup> was that the Government

<sup>1</sup> Companies were liable notwithstanding any notice given limiting their liability; such contract limiting liability (*i.e.*, an owner's risk rate) was void unless signed by the sender of the goods, and held to be reasonable by the Court, if litigation arose. But companies were limited by the Act in their liability for animals carried.

<sup>2</sup> See Public Bills, 1854, vol. vi. The original measure is No. 62; No. 82 contains the substance of the final measure, the fifth clause is added in No. 87. The seventh clause above first appears in No. 314: Lords amendments.

<sup>3</sup> Report on Amalgamation, 1872 (p. xii). The Report follows this with a rather misleading remark: "As introduced by Mr. Cardwell it was in exact accordance with the seventh recommendation of the Select Committee" of 1853. This is true of the Act as finally passed, but the Bill as Cardwell introduced it also embodied the fifth and eighth recommendations—for working arrangements and arbitration respectively.

<sup>4</sup> Hansard, May 4, 1854 (Henley's Speech, p. 1237; Cardwell's, p. 1246).

<sup>5</sup> "The cardinal feature of the legislation which commenced with the Traffic Act of 1854 is the ordaining of what is 'reasonable' and the endeavour to provide for the attainment of it by the appointment of a Court 'with discretionary powers'" (Boyle and Waghorn, vol. i., p. 4).

<sup>6</sup> Hansard, May 4, 1854, p. 1229.

thought it best to "secure some control over the companies before attempting to deal with the question of amalgamation." In justification of this, it must of course be allowed that the Act had an influence upon the question which can by no means be disregarded. "Convenient interchange from one system to another" was now a statutory duty which the railways might be compelled to perform should any litigant have a long enough purse to risk going to law with the companies. In gross cases of refusal of facilities, it was moreover to be expected that the legal officers would move, and private individuals would be relieved from taking this risk.<sup>1</sup> Though all the real difficulties of obtaining combined action from separate undertakings would remain, the Act promised to check that unnecessary friction, and to prevent the erection of those obstacles (often intentionally put in the way of combination) which, in the lack of any other remedy, might have stood as arguments for amalgamation. Here the Act had an indirect influence, "a deterring effect" upon the railways.<sup>2</sup> But as far as the Courts were concerned the record was very meagre. The principle that every company should afford proper facilities for through traffic was only twice taken into court during the twenty years that passed before a new system was introduced by the Regulation of Railways Act, 1873. In both cases the application failed.<sup>3</sup>

<sup>1</sup> Henley admitted that redress might thus be obtained in gross cases, but he thought that would have been so without the Act. "Whether relief would be obtained by this measure," he continued, "was very problematical . . . he had no doubt he could find many honourable gentlemen who would undertake to drive a coach and six through it" (*Hansard*, vol. 132, p. 1237).

<sup>2</sup> See below, p. 231. In the matter of undue preference, also, the Act appears to have reminded the companies of their duty. The Committee of 1882 (on Rates and Fares) said: "It is remarkable that no witnesses have appeared to complain of 'preferences' . . . such as were more or less frequent during the years immediately preceding the Act of 1854."

<sup>3</sup> See Report on Amalgamation, 1872, p. xiii. (note), where the two cases are given.

Turning now to what the Act failed to achieve, Cardwell's speech, in moving for leave to introduce the original Bill,<sup>1</sup> will show that he attempted something much larger than was accomplished by the Act. It would, he said, be in three parts. The first would give the railway companies a power which they did not then possess, for entering into combinations and agreements with one another; the second part would provide for arbitration between them; the third part would set up machinery for securing to the public that practical enjoyment of free transit from one line to another, to which they were entitled by the theory of the law. "By enactment you will establish the right. By decree of a Court of Justice the violation of that right will be adjudicated. By arbitration the mode will be determined in which complete effect can be given to the decision of that tribunal."<sup>2</sup> The Bill which Mr. Cardwell thus outlined was well received by the House, and was read a second time without any debate. His words give a fair summary of the measure, which consisted of fifteen clauses.<sup>3</sup> The second clause is the most interesting one: "Subject to the approval of the Board of Trade, two or more railway companies may enter into agreements for the use and working, jointly or severally, of all or any parts of their railways, for the division and apportionment of traffic, for the use or purchase of each other's rolling stock, for the management of the railways, the forwarding of traffic, the fixing of tolls, and other purposes."

Had the Bill come into operation, there would have been an important change—perhaps a revolution—in railway policy and railway history. The Board of

<sup>1</sup> Hansard, vol. 132, p. 585. Cohn (vol. i., p. 277) characterizes the opening of Cardwell's speech as pompous; the concluding appeals to the House might perhaps be criticized as too rhetorical, but on the whole the speech was not out of keeping with the important subject it concerned.

<sup>2</sup> Hansard, vol. 132, p. 594 (April 6, 1854).

<sup>3</sup> Public Bills, 1854, vol. vi. (No. 62).

Trade would have replaced Parliament as the practical arbiter upon railroad matters. The spirit underlying the Bill—that is to say, the Report of 1853—discouraged amalgamation. If that had been adhered to, Parliament would have been seldom asked to sanction amalgamation schemes, and instead the railway companies would have done the best they could in the way of working arrangements under the ample provisions of the second clause sketched above. The Board would have sanctioned these; it would have arbitrated when companies failed to come to an agreement, and it would have had full power to take recalcitrant companies before the Courts. A fairly harmonious and comprehensive railway system would have resulted; a bureaucratic control would probably have grown up and might have hampered development; but, on the other hand, the shifting and ill-considered legislation which is a necessary consequence of Parliamentary control would have been avoided.

It is, however, idle to speculate on the question, and attempt to decide whether the railway system of 1854 would have advanced better under the orderly regulation of a department than it has done under the Parliamentary system which fails in general and sustained policy, but has been able to judge each measure on its own merits. For Parliament did not care to confer upon the Board of Trade the powers contained in the Bill, and had the Bill been passed, there can be little doubt that this feeling would have found some means of displaying itself and marring the effective action of the Board of Trade. The railway interest alone could not perhaps have done this, but when the House of Commons showed that it had little affection for Cardwell's Bill, it was clear that a scheme, which depended for success upon the Board of Trade receiving hearty support from Parliament, could not be carried through against the wishes of the railway companies. At the same time, it must be allowed that

Cardwell might have attempted to save more than he did from the shipwreck of his Bill. We have already suggested that his management of it in the House was open to criticism, and it is worth while going back to this matter because it throws some light on the difficulties of Railway legislation. Like Gladstone in 1844, Cardwell, as President of the Board of Trade, sought to carry a measure which would give the Board of Trade a control over the railway system. In each case a spirited opening attack made subsequent surrender the more humiliating.

Cardwell's attack, however, was made chiefly from the Board of Trade, and he gave way in Parliament before ever his Bill had been criticized; it had been read a second time without discussion, and then, when the Committee stage arrived on May 4, 1854, members found to their surprise that the original Bill had been so metamorphosed as to be practically a new one. Re-issued only a day beforehand, it was now shorn of the contentious clauses which were to have given powers to the Board of Trade, and was substantially identical with the Act subsequently passed.

There was much criticism of this action of Cardwell's in the House,<sup>1</sup> but he only made a brief explanation, saying that he had met representatives of the railway companies, had found them most reasonable and fair-minded, and had fallen in with their view that applications against railway companies should "first be made to a court of law," before the Board of Trade were asked to interfere.<sup>2</sup> These last words evaded the point, for the original Bill had provided that applications should in the first instance be made to the Courts; what Cardwell should have explained was the principle of applying both in the first and last instance to the Courts, and in no instance to the Board of Trade. But

<sup>1</sup> Hansard, vol. 132, May 4, 1854. Speeches of Hudson, Ricardo, Evelyn Denison, Disraeli.

<sup>2</sup> *Ibid.*, pp. 1247 and 1250.

probably he assumed that the House knew what had happened outside Parliament, and therefore did not think it necessary to make a detailed explanation. Several meetings of railway proprietors had discussed the original Bill, and these had ultimately resolved themselves into two great gatherings, the one headed by the North Western and the Midland Railways, the other by the Great Western and Great Northern.<sup>1</sup> The first group wished to oppose Cardwell's legislation *in toto*, but they were persuaded by the second and more moderate group that some regulation of the exchange of traffic was necessary, and the two together were then no doubt able to put far greater pressure upon Cardwell than he admitted to the House, and the Board of Trade clauses were sacrificed.

But even these meetings do not explain everything. We must go back still farther in order to see how Cardwell had attempted to force the Board of Trade upon Parliament. A few days after his Committee had made its last report in July, 1853, another Select Committee of the Commons was appointed to revise the standing orders of the House. Many members of the former inquiry served on this latter Committee, and as a result of their revision, some new standing orders were issued, to give effect to the recommendations of Cardwell's Committee.<sup>2</sup>

One of these new orders established "The General Committee on Railway and Canal Bills," a body intended to supply, as Cardwell's Committee had recommended, a permanent Committee which would take a comprehensive view of all railway schemes. The General Committee were also to act as a chairman's

<sup>1</sup> These meetings are described in the *Railway Times*, 1854, April 29 (pp. 452, 453), and May 6 (p. 476).

<sup>2</sup> Select Committee to revise Standing Orders, 1852-53, XXXIV. (856). The Report contains five new Orders; these were accepted by the House (*Journal of Commons*, 1853, CVIII., p. 770), and appeared as Nos. 4-8 of the Standing Orders (Accounts and Papers, 1852-53, LXXXIII., No. 888).

panel,<sup>1</sup> supplying the chairman for each railway sub-committee, but they were not specifically given the wide general powers of deciding questions of principle, which Cardwell's Committee had stipulated. They were appointed at the beginning of the Session of 1854, and were for a time so active that their numbers had to be enlarged from forty members to sixty in May of that year.<sup>2</sup> They soon, however, lost most of their initiative, and became a more or less mechanical body, with little idea of fulfilling the duties which Cardwell's Committee had mapped out for them : it cannot be said that they maintained any definite policy towards amalgamation questions, or that they had a visible influence upon the conduct of amalgamation Bills.<sup>3</sup> But as established in 1854 the General Committee was certainly in accordance with the ideas of Cardwell's Committee, and he proceeded to use the new Committee to carry out further the recommendation of 1853. It was here that his management was at fault, and that he annoyed the House and alarmed the railway interest by allowing the Board of Trade to give important assistance to the General Committee. The Board in March, 1854, drew up for the Committee clauses<sup>4</sup> in accordance with the recommendations of

<sup>1</sup> Erskine May, "Parliamentary Practice" (ninth edition, 1883), p. 802.

<sup>2</sup> Standing Order No. 4 of 1853—one of the new ones—laid down that "the General Committee should consist of not less than twenty-four or more than forty other members" besides the Chairman of Ways and Means (*ex-officio* Chairman of General Committee). The Revision Committee of 1854 took out all mention of numbers (Reports Committees, 1854, VII., 371), and since then the Orders have continued to avoid specifying the numbers. Erskine May (*op. cit.*, p. 802) says the Committee generally consists of about eight members.

<sup>3</sup> Of the appointment of the General Committee, Shelford says : "These attempts to guide Committees have invariably failed" ("Law of Railways," fourth edition, 1869, vol. i., p. 48).

<sup>4</sup> Accounts and Papers, 1854, LXII. (158). The Board had before this supplied the General Committee at the end of February, 1854, with a Report on the Bills of the year. The Report classifies the Bills, and points out how far the sanctioning of certain of them would be contrary to the recommendations of 1853, *ibid.* (139).

1853, "affecting the forwarding of traffic, working arrangements, leases to individuals, and other objects." The clauses need not be outlined here, as with three more added by the General Committee, they practically formed Cardwell's original Bill of April, 1854. The General Committee ordered the clauses to be inserted in all impending and future Railway Bills. This was a momentous order. The Board of Trade, in a Report to the General Committee, give the reasons for the manœuvre : "The Committee of last year seem to have contemplated passing a General Act. In the meantime . . . my lords would suggest for the consideration of the General Committee, whether clauses providing for the objects contemplated should not be inserted in all Bills, which, sanctioning working arrangements, add to the powers wielded by the directors of the companies so associated."<sup>1</sup> Cardwell may have been acting in perfect good faith—so convinced of the value of the clauses as to think no time should be lost in putting them into force. But the impression he conveyed to the minds of railway directors, who interviewed him on the matter on March 31,<sup>2</sup> was that he had taken this underhand method of introducing his clauses, so that when his promised General Bill came before the House, he could justify it by pointing to its principles as already forming part of some Railway Bills. The Chairman of the North Western—Lord Chandos—presiding at a conference of directors assembled to protest against the innovation, declared that Mr. Cardwell was using the General Committee to lay the foundation of his General Bill.<sup>3</sup> He reminded the directors that they could not petition the House against

<sup>1</sup> Accounts and Papers, 1854, LXII. (139), p. 21.

<sup>2</sup> *Railway Times*, April 1 and 8, 1854.

<sup>3</sup> *Ibid.*, April 8, 1854 (p. 370). This meeting was held on April 1. In his speech Lord Chandos spoke of the secrecy of the new clauses. They were sent only to the Sub-Committees, not to all members of the House, and were marked "not to be divulged."

these clauses because it was informal to notice the proceedings of Committees which had not laid their Reports upon the table.

A debate in the House justified this view,<sup>1</sup> and made it clear that Mr. Cardwell had not forwarded his cause by acting as he had. In this debate—the third reading of the North London Railway Bill—Lord Chandos moved the omission of the seven clauses inserted by the General Committee. Mr. Bouverie, as Chairman of that Committee, made no secret of the part played by the Board of Trade in drawing up the clauses. His defence was that the railway interest was difficult to deal with,<sup>2</sup> “but if these clauses are introduced gradually in Railway Bills, they may ultimately be introduced generally in all Railway Bills.” Mr. Labouchere remarked on this extenuation of an improper course simply because it happened to have a good but not easily attainable end. He was in favour of the clauses, but thought the mode of their introduction would prejudice the fair discussion of railway schemes. “No advantage,” he said, “could be gained by endeavouring to introduce clauses into a Bill as it were by a side wind, without the full knowledge and the deliberate sanction of the House.” Lord Chandos ultimately postponed his amendment, and before it came up again, Cardwell had introduced his Bill. The clauses under discussion were reproduced almost word for word in the Bill, and they disappeared when Cardwell recast the Bill after its second reading.

There can be little doubt that he made a mistake in attempting these preliminary manœuvres with the General Committee and the Board of Trade. His action roused suspicion and opposition; it gave the

<sup>1</sup> April 3, 1854. *Hansard*, vol. 132, pp. 326-334.

<sup>2</sup> “An extraordinary grievance like the present required an extraordinary remedy” (*Hansard*, vol. 132, p. 328). The report of the speech is slightly different in the *Railway Times* (April 8, 1854, pp. 370-371).

General Committee a bad start, and so probably led to its decline ; it certainly added to the obstacles in the way of his ambitious programme of railway legislation, though one cannot say whether those obstacles would not in any case have brought him to a standstill. As it turned out, neither by alterations of standing orders nor by legislation did he succeed in putting into force the recommendations of his Committee of 1853. Speaking in Parliament, after he had cut his Bill down, he made this comment : "The House must agree with him that whoever undertook to settle the claims of the general public against the railway companies . . . and to do justice to all parties amid the complicated and not very consistent legislation of the last twenty years . . . had undertaken a very difficult task."<sup>1</sup>

Cardwell may have found consolation in his success with another measure, the Merchant Shipping Act of 1854, which in its main outlines has formed the code of the British mercantile marine ever since. This Act, consisting of 548 sections, passed through Committee at a single sitting. Lord John Russell asked Cardwell what great public interest he had abandoned that the Bill passed so easily.<sup>2</sup> The question had no serious application, but it would not have been so pleasant had it been asked in reference to the Traffic Act. The third reading of the latter<sup>3</sup> was hurried through the House of Commons after many members had left the

<sup>1</sup> Hansard, vol. 132, p. 1244. Cardwell continued by commenting on the different criticisms members had made : "some said it was a Bill for the public, doing nothing for the railway companies ; others said it was all for the railway interests." Evelyn Denison said it did nothing for either (p. 1231). Cohn makes the same claim (vol. i., p. 278).

<sup>2</sup> Dictionary of National Biography : "Cardwell, Edward."

<sup>3</sup> After two sittings in Committee, May 4 and 5, the third reading was taken on May 12, 1854 (Hansard, vol. 133, p. 231). The *Railway Times* (May 20, 1854) states that two Government measures were suddenly postponed to enable the Railway Bill to come up ; an attempt was made to adjourn the debate, but in the absence of most members interested in the Bill, a majority, "chiefly composed of Government officials," had its own way and passed the measure.

House, believing that the measure could not come up that night. We may doubt whether there was much desire to oppose the reading ; the Bill had been reduced to the requirements of the railway representatives, and the rest of the House had probably lost interest in it. It was only another unfortunate incident —there were more to come in the House of Lords<sup>1</sup>—in the progress of the unfortunate Bill towards its narrowed outcome, the Traffic Act of 1854.

However, the Act was certainly of value as a precedent. It might have been a better one, promised indeed at one time not merely to introduce the somewhat indeterminate principle of “ reasonableness ” into railway practice, but also to provide an arbitration system and an ample scheme that would have replaced amalgamations by working agreements. But on the whole it would be more in accord with the facts of railway history, not to deplore what failed to be accomplished, but to express some surprise that any notice at all was taken of the recommendations of 1853. Cardwell’s Committee had no monopoly in the matter of neglect by the legislature ; their report suffered no worse fate than befell the Reports of Gladstone’s Committee in 1844, and of the Joint Committee of 1872.

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<sup>1</sup> During the second reading on May 19 Lord Campbell commenced the judicial opposition to the Bill : “ It made the judges railway directors ” (Hansard, vol. 133, p. 594). When the Committee stage was reached on May 26, a proposal to send the Bill to a Select Committee—which would have shelved it for the Session—was almost agreed to. In Committee on May 30 Lord Campbell once more voiced the complaint of the judges that they were incompetent to determine reasonable fares or undue delay (*Ibid.*, p. 1136). After another sitting on June 1, the Bill was read a third time on June 12. The *Journal of Commons* (CIX., pp. 317 and 338) shows that there were further difficulties between the two Houses over their amendments.

## CHAPTER IX

### 1854-1871—THE ATTITUDE OF PARLIAMENT—THE ROYAL COMMISSION ON RAILWAYS—AMAL- GAMATION AND THE CRISIS OF 1866

LORD DERBY's second Ministry came into power in February, 1858, and consequently when Wilson Patten asked the President of the Board of Trade whether the Government had taken into consideration the existing system of railway legislation, it was no longer Cardwell, but Henley who replied.<sup>1</sup> The subject needed attention, he said, and he would help to promote an inquiry into the effects of that part of the recommendations of 1853 which had been acted upon. A Committee was ordered on June 8 and a forecast of the problems to be examined was supplied on the following day by a deputation of railway directors and members of Parliament which waited upon Mr. Disraeli, the Chancellor of the Exchequer, and Mr. Henley, to urge the necessity of more definite principles in railway legislation, and to complain of the varying decisions not only of railway committees, but of Parliament itself.<sup>2</sup> The deputation asked that some general principles such as those of Mr. Gladstone's Committee of 1844, and Mr. Cardwell's of 1853, should not only be laid down, but also acted upon. The Select Committee

<sup>1</sup> Hansard, vol. 150, p. 1516.

<sup>2</sup> *Railway Times*, June 12, 1858, p. 739. Mr. Locke introduced the deputation ; his chief complaint against the House was as to its attitude to competition.

appointed published their Report about a month later.<sup>1</sup> Wilson Patten was chairman and with him were Mr. Henley, Mr. Cardwell, Sir James Graham, Mr. Gladstone, Mr. Lowe, Lord Robert Cecil (afterwards Lord Salisbury), Mr. Stephenson, Mr. Bouverie, Mr. Price, and five other members.<sup>2</sup> They were certainly one of the strongest Committees that ever sat, but their Report—a single sheet—contained nothing beyond a dozen resolutions dealing with small details of Parliamentary procedure. The evidence, however, supplies us with some valuable comments upon the railway position, that of Captain Douglas Galton, secretary to the Railway Department of the Board of Trade, being of chief importance. As to the points with which we are immediately concerned, he had not a good word to say for the General Committee, or for the system of Board of Trade Reports as it stood. The attempt of Cardwell's Committee to secure the concurrence of Committees of the House had failed; greater uniformity of decision had not been obtained.<sup>3</sup> The Board of Trade made as complete reports on the Railway Bills of the year as their information enabled them to do—these reports were in the form of observations, not recommendations, for Committees were more disposed to accept them in this form.<sup>4</sup> But the Board had no power to obtain adequate information; what they obtained was supplied in a most imperfect manner

<sup>1</sup> Report of Select Committee on Railway and Canal Legislation, 1857-58, XIV. (411).

<sup>2</sup> Mr. Price was discharged from attendance on June 21. Mr. Stephenson did not attend any of the meetings, but the other members mentioned were regular in attendance.

<sup>3</sup> Evidence, Questions 224, 131, 209, 24.

<sup>4</sup> Mr. Charles Stewart, Secretary to the North Western for nearly twenty years, was particularly outspoken about the attitude of Parliamentary Committees to the Board of Trade, in his evidence before the Royal Commission of 1867. "The Committees are exceedingly jealous of the Board of Trade. They have never treated the Reports of the Board with the slightest respect. They have never been guided by the Reports of the Board" (Question 14,851).

and could be of little use to the House.<sup>1</sup> As to the Board of Trade assisting the Committees in their decisions, as recommended in 1853, "we have never been asked for assistance." "We group Railway Bills for the General Committees, but they do not generally adhere to our classification."<sup>2</sup> On the whole he could not recommend any scheme until Parliament was more inclined to support the Board and adopt their Reports ; it had generally done the very opposite.<sup>3</sup>

To this evidence of Captain Galton's, we may join the evidence of an official of the House of Commons —T. Erskine May, the well-known authority on Procedure—who was examined by a Select Committee of the House of Lords, which inquired into the Private Bill system in this same year (1858) on the same lines as the Commons Committee which we have mentioned.<sup>4</sup> Of Cardwell's General Committee Erskine May said, the "principle was right in itself, but it had not secured uniformity of decision. Complaints of want of uniformity had become more general, because the public was becoming more and more alive to the general evils of Parliamentary legislation. The House of Commons had almost given up any attempt to lay down general principles in regard to Private Bill legislation ; the second reading of a Private Bill had become a mere formality." He suggested a separate tribunal, and declared that as Parliament had a "constitutional jealousy of Executive Departments," the tribunal must be a Parliamentary Court. On the question of expense, he suggested that the double procedure (before both Houses) should be dispensed with in the case of unopposed Bills. The Committee were informed that an unopposed Railway Bill cost about £800, £650 of which went in Parliamentary fees.<sup>5</sup>

<sup>1</sup> Evidence, Questions 144, and 63-65.

<sup>2</sup> Evidence, Questions 89, 93.

<sup>3</sup> *Ibid*, 215.

<sup>4</sup> Reports of Committees, 1857-58, XII. (450).

<sup>5</sup> Erskine May's evidence, Questions 85, 150, 163, 204. Pritt's

The evidence put before these Committees of 1858 makes it clear that neither in the matter of uniformity of decision nor of expense of proceedings had any improvement in Private Bill legislation been effected in 1853 and 1854. Further proof of this abounds in the complaints and inquiries of the following years. In 1859 a body known as the Shareholders' Association complained to Mr. Milner Gibson (President of the Board of Trade), that, in spite of the inquiries of the previous year, no steps had been taken to reduce the enormous cost of Bills. Mr. Gibson could only reply indefinitely, admitting the importance of the subject.<sup>1</sup>

In 1863, however, a Select Committee of the House of Commons once more dealt with the question. Mr. Gibson was chairman of the Committee, Colonel Wilson Patten and others being joined with him to inquire into the existing system of Private Bill legislation. They examined some eminent witnesses and reported on the whole in favour of the existing system : "There is a general concurrence of opinion among the witnesses examined that the present system on which Private Business is conducted is not satisfactory, chiefly on the ground of the length and costliness of the proceedings. . . . All the witnesses, however, agree that the ultimate decision upon opposed undertakings . . . ought still to rest with the Legislature. Your Committee is disposed to concur in the view entertained by the majority of the witnesses that no court of inquiry could be constituted which would, on the whole, be so satisfactory to the public as committees composed of members of the Houses of Parliament."<sup>2</sup> In these

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evidence, on cost of Bills, Question 576. Erskine May's ideas were further developed in the evidence he gave before the Committee of 1863. See below, p. 210.

<sup>1</sup> *Railway Times*, July 16, 1859, p. 807. There are several references in the paper to this "Shareholders' Association" (or "Directors' Association," as it is sometimes called), and Wilson Patten's Arbitration Act, passed in 1859, is spoken of as the work of the Association.

<sup>2</sup> Reports of Committees, 1863, VIII. (385), p. iii.

words we get a good view of the position in 1863, and it is worth observing that the ground of complaint is shifting ; dissatisfaction is now centred not so much in the variability of the Committee system as in its costliness. It should be noticed that the expense of railway promotion had tended to increase since 1853, when, in accordance with the views of Cardwell's Committee on the question of *locus standi*, competition had, by a new standing order, been officially recognized as a ground for petitioning against a Bill.<sup>1</sup> A Parliamentary Counsel said of this : " If it were not for the standing order on competition, the lobbies upstairs would become a desert." Lord Fortescue put the matter in this way when debating on standing orders—from the time of Dalhousie, when ineffectual attempts had been made to lay down some general principle for the guidance of Parliament, millions of money had been wasted, " scheme after scheme passed, scheme after scheme rejected, by different Committees, upon the same ground—that the line was competitive. Before it was too late, before the remaining links in the railway communication of the Kingdom were connected, it was to be hoped that some principle would be laid down for the guidance of projectors and Committees, that the point would be settled definitely whether, in a new line of railway, competition was to be considered an objection or a recommendation."<sup>2</sup>

But though the Select Committee of 1863 could not think of any system better than the somewhat indifferent existing one, many suggestions were made to them for new tribunals and processes, and we can see from these that the idea of permanence and continuity of policy still appealed to many capable minds,

<sup>1</sup> F. Clifford and P. S. Stephens, " Practice of the Court of Referees on Private Bills in Parliament " (1870), chap. iv., p. 60.

<sup>2</sup> *Ibid.* The authors give some interesting cases of petitions against amalgamation ; particularly the proposed fusion of the Midland and the Glasgow and S.W. in 1867.

and was to them more important than the reduction of expense. These suggestions may be found in the evidence and in an Appendix to the Report. They came from Mr. Booth, Secretary to the Board of Trade, Mr. Rickards, Counsel to the Speaker, Earl Grey, Mr. Massey, Chairman of Ways and Means, Lord Redesdale, Chairman of Committees on Private Bills in the House of Lords, and from Mr. Erskine May, who, with Mr. Booth, had given similar evidence before the Committee of 1858. They all aimed at the establishment of more or less permanent Boards or tribunals with various degrees of power over the preliminary stages, or even the entire conduct of Private Bills.<sup>1</sup> There is little new in this, but it is worth

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<sup>1</sup> Lord Redesdale proposed a Board consisting of one Peer and two members of the House of Commons, who should make preliminary inquiries into all railway schemes ; no measure was to come before Parliament unless sanctioned by the Board. The members of the Board were to be paid. Erskine May suggested the establishment of a judicial court, independent of the Executive Government, which should perform all the functions and exercise all the powers of Committees on Private Bills in both Houses. Mr. Booth, Secretary of the Board of Trade, thought a change of policy necessary ; freer scope should be given to competition, and the proposers of any new railway scheme should be allowed, if three-fourths of the landowners assented, to proceed with their scheme, provided they satisfied certain preliminary conditions to be prescribed by the Board of Trade. He handed in the outline of a Bill to this effect (Appendix 2). Mr. Rickards and Mr. Booth, in Appendices 3 and 4, pointed out cases in which Parliament had already transferred its powers to independent bodies (Enclosure Commissioners, Divorce Court, Local Government Authorities). Mr. Rickards' memorandum showed clearly where the chief expenses of railway legislation could be curtailed. He followed Earl Grey in his statement that Board of Trade Reports on Railway Bills were useless, and that a public tribunal was necessary, which would sit all the year through and pursue a regular settled policy. He referred to the Enclosure Commissioners as an example of such a tribunal ; as with them the supervision of Parliament was to remain : "Rarely to be exercised, yet reserved as a check for extreme cases."

Mr. Whalley, a member of the Committee, wished all private Bills to be investigated by a permanent tribunal, but he did not propose to give it the ultimate decision. His scheme is set out at length in a Bill, Appendix No. 8. Mr. Whalley introduced his Bill on February 6, 1863 ; he said then that the result of the inquiry by the

noticing that the oft-suggested control of railway legislation by bodies distinct from Parliament is now seriously proposed for almost the last time. The idea has loomed large since 1844; it is now gradually replaced by the idea introduced in 1854 and developed in 1873, that a separate jurisdiction, rather than a legislative body, was the chief requirement for railway problems. In 1863 the two ideas meet, and one feels, when reading some of the proposals made to the Committee of that year, that an effective system must surely be evolved before long, when the failings of the existing one are met by so much constructive criticism.

It cannot be said, however, that the Legislation following this Inquiry of 1863 made any impression on the problem. The Railways Clauses Act, 1863, effected a consolidation of many clauses which had become usual in Bills. The two Acts of 1864—Railway Companies Powers Act, and Railways Construction Facilities Act—both aimed at reducing the expense of obtaining railway powers, but they did not touch the other question—the establishment of a more permanent body to direct railway policy; indeed, as we have seen, the Committee of 1863 did not believe such a body would be satisfactory.

By the former Act, certificates could be issued by the Board of Trade, sanctioning working agreements and other arrangements between companies. The certificate took the place of the special Act. By the Construction Facilities Act the making of branches and new works might also be sanctioned by certificate. The first enactment looks like a belated edition of the ideas of 1853-54, but neither Act is of any importance, as in neither case have the powers afforded been used. In both cases it was provided that if other companies

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Committee of 1858 was to show a unanimous concurrence of opinion that the present tribunal was attended with almost every possible inconvenience and disadvantage (*Hansard*, vol. 169). After various disappointments he had to abandon his Bill.

objected, the proceedings before the Board of Trade were to cease, and further proceedings to be in the usual manner before Parliament.<sup>1</sup> "The effect of these conditions has been so to clog the machinery that it appears never to have been used."<sup>2</sup>

One might, however, go on almost indefinitely discussing the somewhat languid and half-considered attempts at railway reform during the period between 1854 and 1871; Professor Hadley has said of these years: "Parliament suggested a great many things and accomplished nothing—least of all did they check the tendency of the roads to consolidate."

But he goes on to speak of an Inquiry which we must now examine: "Much was expected of the Royal Commission of 1865-67, but nothing came of it. They collected a mass of valuable material, and wrote a tolerably good Report; but when they came to draw their inferences they could only say in general that the existing state of things seemed likely to continue and that they saw very few means of helping it."<sup>3</sup> These words are a fair summary of the verdict commonly passed upon the Royal Commission, but they need some amplification. In the first place the Commissioners seem to have been appointed more with the idea that they should collect the material necessary for others to base judgments upon, than that they should

<sup>1</sup> The Acts (27 and 28 Vict., c. 120 and 121) are discussed by Mr. Temple Franks, *Railway News*, November 23, 1907: "History of Traffic Legislation." See also Board of Trade Railway Conference, 1909 [Cd. 1677], p. 161, and the Report of 1911 on Railway Agreements and Amalgamations [Cd. 5631], pp. 14 and 30. The Report condemns the system of these Acts, and also of the Clauses Act of 1863 ("ineffective and anomalous"), which restricted working agreements. See also Robertson, "Combination among Railway Companies," pp. 36-37; and below, p. 276. The Powers Act was amended in 1870, the Board of Trade being allowed to issue a provisional certificate. But this certificate had no validity till confirmed by Parliament.

<sup>2</sup> Departmental Committee on Agreements, 1911, Report, p. 30.

<sup>3</sup> A. T. Hadley, "Railroad Transportation," p. 169.

themselves construct schemes for railway reform. Mr. Gladstone, Chancellor of the Exchequer, was most careful to emphasize this when he informed the House of Commons that a Commission would be appointed.<sup>1</sup> The Commission would "inquire into the economical questions connected with our railway system." . . . "It is not our intention to take any step which could under any circumstances at all compromise or commit either ourselves or Parliament with reference to any legislation upon a matter of this vast importance. If we were going into policy, a Committee of this House would be a better instrument." The Commission was "to bring all the facts and information bearing upon the subject into a state in which it may be thoroughly available for members of Parliament, and likewise for the public at large." Bearing this in mind one should not expect much constructive work in the Report; one certainly will not be disappointed with the vast collection of historical information got together by the Commissioners.

Secondly, the position of the Commission was an intermediate one. The rates question was not yet a burning one. Time had shown that the question of control—with which was bound up the question of a new tribunal or a new process for railway legislation—and the question of amalgamation were not so urgent as they had seemed to be twenty years earlier. The latter indeed was reopened in 1872 and 1873, and so, to some extent, was that of control, but the Railway Commissioners then established were a legal body, while the suggestions of 1844 and 1853 had aimed at an administrative body, a Government department which would take the control of railways out of Parliament's hand, or would at least replace or guide the Committees on Railway Bills. We have seen how opinion on this matter had been changing since 1853; the Report

<sup>1</sup> Hansard, vol. 177, pp. 231 and 235.

which the Royal Commission published in May, 1867,<sup>1</sup> finally disposed of the old idea of an extra Parliamentary body for the sanctioning of railway schemes. The advantages of the Committee system were fully explained. It had made possible the application of specific decisions to specific cases.<sup>2</sup> "The system of considering each application for a railway upon its own merits without reference to any preconceived scheme for the accommodation of the country may have led to a larger expenditure of capital than was necessary. . . . But, on the other hand,"<sup>3</sup> the freedom from defined principles of action in granting new lines has led to a much more rapid development of the country than

<sup>1</sup> Report of the Royal Commission on Railways, 1867, XXXVIII. [3844]. The Report covers 86 pages. Separate reports by Mr. Monsell and Sir Rowland Hill follow. Then come 889 pages (double column) of evidence. Two volumes of Appendices follow: the first contains an index to the evidence (not to the Report). Evidence was taken at 61 sittings from 110 witnesses, counting as separate witnesses those who were recalled (*e.g.*, Mr. Allport three times) for further examination. The evidence contains 18,000 questions. The original Commission of March 11, 1865, appointed fourteen Commissioners. This was revoked by a second Commission of December 19, 1865, which added two more members (Lord Belmore and Mr. Monsell). Three commissioners were members of the House of Lords—the Duke of Devonshire, Lord Belmore, and Lord Donoughmore. Nine were members of the House of Commons—Lord Stanley, Mr. Robert Lowe, Mr. Roebuck, Mr. Horsfall, Mr. Dalglish, Mr. Carr Glyn, Mr. Ayrton, the Hon. E. F. Leveson Gower, Mr. Monsell. The remaining four were Sir Rowland Hill, Captain Douglas Galton, Mr. Hamilton and Mr. McClean. Lord Donoughmore, Lord Stanley, and Mr. Roebuck did not sign any Report; Sir Rowland Hill and Mr. Monsell were the only signatories of their own Reports. The eleven remaining Commissioners signed the main Report. The Duke of Devonshire was Chairman of the Commission; when he was absent Lord Stanley presided on several occasions.

<sup>2</sup> Hadley, writing in 1885, uses similar words of the English railway position in general. He says: "The period for general legislation has passed. Mr. Adams is right in saying, 'As a result of forty years of experience and agitation Great Britain has on this head come back very nearly to its point of commencement.' He is not quite right in adding, 'It has settled down on the doctrine of *laissez faire*.' It might better be said that it has settled down on the policy of specific laws for specific troubles" ("Railroad Transportation," p. 171).

could otherwise have taken place, and to a greater regard being paid to the special wants of particular branches of industry and commercial communication. . . . The commercial and other interests at stake are in many cases so great, and the railway interests so powerful that neither party would consent to have questions of important conflicting schemes settled by any tribunal without a power of final appeal to Parliament. . . . Nor do we consider absolute uniformity in the provisions of the Acts either necessary or desirable." A French Commission which inquired into railways in 1863 concluded that progress in France had been prejudiced and retarded by an adherence to a preconceived system.<sup>1</sup> "We see no reason why Parliament should withhold its sanction because the proposed line" (under certain circumstances) "may not conform to some *a priori* conclusion as to what the tolls and rates and the character of a railway should be."<sup>2</sup>

The Commissioners were taking a broad survey of the railway question. They found that on the whole the good far outweighed the evil, and were little disturbed by the complaints about details of the system, which had at times figured so largely during the preceding years, and had subsequently been remedied instead of aggravated by the mere lapse of time. They did indeed suggest that the incorporation and financial affairs of railway companies might be dealt with under the Joint Stock Companies Act, thus relieving Parliament from these cares and lightening the burden of

<sup>1</sup> Edwin Chadwick's evidence (May 10, 1866) was of a very different tone; his zeal for reform and control would naturally be in contrast with the views of a *laissez faire* Commission. He was very critical of Private Bill procedure—"the expense is scandalous." He quoted a Prussian official who had said of our Parliamentary proceedings: "You have two mobs to fight through, and to bribe half of them" (17,237). His condemnation of English railway management was rather dogmatic, and his remarks on the advantages of the French system (army contracts in France free from political influence) were unfortunate.

<sup>2</sup> Report, Sections 86, 87, 88.

railway costs of which the companies had so frequently complained. But on the whole *laissez faire* is the dominant note of the Report, or perhaps we should say as the Commissioners themselves put it, "the enforcement of existing public rights rather than the creation of new ones was their main object."<sup>1</sup>

A few quotations may illustrate this. Comparing English railways with those of other countries, they say : "The continental system is a paternal system in which the Government overlooks and controls all the acts of the companies. The American system is one of complete freedom. Neither system is exactly suited to our requirements or our character."<sup>2</sup> Of the advantages of unequal rates: "However much the owners of the existing modes of conveyance may have been prejudiced, the general public have derived an unqualified advantage from the great increase of facilities for the conveyance of merchandise, which we have no doubt has largely contributed to the development of the industry and resources of the country."<sup>3</sup> Of Government purchase of the railways, and of the Act of 1844 (the twenty-one years fixed by which had now elapsed),<sup>4</sup> the Commissioners were of opinion : "That it is inexpedient at present to subvert the policy which has hitherto been adopted of leaving the construction and management of railways to the free enterprise of the people, under such conditions as Parliament may think fit to impose for the general welfare of the public."<sup>5</sup> . . . "The Act of 1844

<sup>1</sup> Report, Section 173.

<sup>2</sup> *Ibid.*, Section 117.

<sup>3</sup> *Ibid.*, Section 99.

<sup>4</sup> The *Economist* had taken up the question of State ownership, arguing strongly in favour of it, at the end of 1864. In a leader, "Advantages that would accrue from Ownership of Railways by the State" (January 7, 1865, p. 1), it claimed that the Act of 1844 had served a useful purpose ; the fact that it would come into operation in 1865 had advertised the subject.

<sup>5</sup> Report, Section 74. The Commissioners did not believe that any financial gain would accrue to the State, nor would the lines be

warns us of the extreme danger of making prospective arrangements to take effect after many years. Instead of facilitating State acquisition, it has rendered the operation more difficult, and indeed almost impracticable.”<sup>1</sup>

After this we need not expect to find any constructive criticism of amalgamation, when the Commissioners come to that subject. There is, however, an interesting historical sketch,<sup>2</sup> and here again we must bear in mind how their historical—and somewhat academic—review of the question would naturally confirm the Commissioners in the non-interventionist attitude which prevailed at the time, and which is displayed in their Report. Amalgamation had agitated many minds twenty years earlier, and had been anxiously watched by Parliament. Time had shown that it was comparatively innocuous, and in 1865 it was going its way peacefully and with little comment. The Commissioners contrasted the figures for 1843 and 1865—2,100 miles of railway in the former year owned by seventy companies; 11,451 miles in 1865 owned or controlled by seventy-eight companies. “The length of line under one control in 1843 was scarcely such as to obtain the most economical management, but the principal object of the companies in amalgamating since that period has been to obtain control of the districts from which they draw traffic, in order to prevent that traffic being carried by other lines. Amalgamation has thus been rather a matter of offensive and defensive policy than a question of economy in working the lines.”<sup>3</sup> The last words are familiar enough.

better managed when owned by the State and leased to companies for limited periods, as some witnesses suggested.

<sup>1</sup> See above, p. 111.

<sup>2</sup> Report, Section 168. There is also a recommendation that amalgamation should be facilitated in Ireland. The Irish railways were considered quite apart from the English ones, and were the subject of a separate report by Mr. Monsell.

<sup>3</sup> *Ibid.*, Section 162.

The Commissioners referred to the recommendations of Cardwell's Committee, and suggested that the Traffic Act of 1854 was only "the first result of this Committee's labour," the Arbitration Act of 1859, and the Act of 1864, which provided for working arrangements, being also results of those recommendations.<sup>1</sup> It is, perhaps, correct to link the Acts together in this way, but we have tried to show that the piecemeal method of legislating did not in actual practice make that change in railway policy which Cardwell's Committee had wished for; the curtailment of the original measure in 1854 went far to nullify the Committee's work, and the two subsequent Acts were of little value. The Commissioners considered that the Act of 1854 was "sufficient for its purpose" (removing impediments in the way of traffic), but they made a distinction between a suit brought by an individual for his own interests, and one for the establishment of a general right on behalf of the public. Naturally, the Commissioners saw "no reason why an individual should not be left to the ordinary courts and the remedies which they afford." But they depart from individualistic conceptions in the latter case: "A public duty is not likely to be efficiently discharged by merely private energy; . . . the Board of Trade has never exercised the power, which it clearly possesses," to establish a general right. They suggest, therefore, "that where the public interest is affected any person should be at liberty to memorialize the Board . . . when the Board should take the necessary measures to enforce the public rights."<sup>2</sup>

Finally, we must notice what the Commissioners said of the Act of 1864: "The restriction upon the agreements between companies which makes a Board of Trade certificate necessary" does not seem an advantage; (we have seen that the whole system was

<sup>1</sup> Report, Section 164.

<sup>2</sup> *Ibid.*, Section 173.

inoperative). "Companies cannot be prevented from entering into such agreements with each other, as would be practically binding upon them even if the Board refused its certificate, but such an agreement would be secret, and might be detrimental. We are of opinion that a sound principle to act on in the matter of working and traffic agreements is to allow any companies to enter into them without reference to any tribunal, upon the sole condition that the particulars should be made public in the locality."<sup>1</sup>

"Agreements for amalgamation stand on a somewhat different footing." "The amalgamation of short lines with larger ones should be facilitated . . . but each shareholder has guaranteed to him his share in the particular project, as defined by law, of which his co-shareholders or directors have no power to deprive him."<sup>2</sup> . . . "We consider that, as a question of public policy, a permanent amalgamation of the undertakings of railway companies should not take place without affording to Parliament the opportunity which it now possesses of determining the conditions under which such amalgamation should be permitted."<sup>3</sup> One is tempted to ask whether the Commissioners dreamt there was a chance of Parliament foregoing this opportunity, and to suggest that they might have ventured on an outline of what the conditions should be.

The Report was stigmatized by an outspoken railway journal as "one of the most patent nullities ever issued from the legislative press."<sup>4</sup> The Select Committee of 1872 were not so frank as this, but in an appendix to their Report, in which they give the recommendations of 1867, the comment, "Nothing done," at the end of each recommendation, recurs with

<sup>1</sup> See also below, p. 276.

<sup>2</sup> Report, Sections 164-167.

<sup>3</sup> *Ibid.*, Section 201.

<sup>4</sup> *Railway Times*, May 18, 1867, p. 500.

great regularity.<sup>1</sup> Practically the only important result of the Commission was the Regulation of Railways Act, 1868, which, among other things, established the system of railway accounts, which existed till the end of 1912.<sup>2</sup> But as we have suggested, it is not altogether fair to the Royal Commission to judge them by their recommendations. The student of railway questions must always be grateful to them for the historical part of their Report, and still more for the very valuable Appendices—notably a volume of five hundred pages of railway returns—which they published.<sup>3</sup> One other result of the Royal Commission may be noticed. Their appointment and their long inquiry gave the Government a respite; questions in Parliament on railway matters were for five years still more rare than they had been previously.<sup>4</sup> Railways did not again attract general attention until 1871, when suddenly both Parliament and the general public found a great deal to interest and agitate them in the amalgamation proposals of that year.

But before we speak of the events which broke the tranquillity of the previous seventeen years, the actual progress of consolidation between 1854 and 1871 must be described. The period was an important one for the growth of our railway system; new companies were being formed, and old ones extended far more rapidly than might have been imagined, if one estimated

<sup>1</sup> Report on Amalgamation, 1872, Appendix C.

<sup>2</sup> The keeping of accounts had been obligatory since 1845 (Companies Clauses Acts), but no precise form was specified before 1868 (Report Departmental Committee on Accounts and Statistical Returns [Cd. 4697], 1909, p. 4).

<sup>3</sup> Appendices to evidence taken before the Commissioners, vol. ii., Returns from Railway Companies (12,052), 1867. The returns were specially made by the railways in answer to inquiries addressed to them by the Commissioners. Appendix E.K. (vol. i. Appendices to Evidence (12,052), 1867)—a list of Railway Acts from 1801 to 1866—is also very useful.

<sup>4</sup> Cohn, vol. i., p. 289.

progress by the lifeless attitude of Parliament during these years.

A comparison of the Private Railway Acts passed for Great Britain in the years before and after 1854 shows a regular and considerable increase in the latter period. This might naturally be expected. Railway companies so frequently needed fresh Acts—amending or extending original powers, sanctioning extra capital, and permitting them to build branches or acquire them—that, while the railway system was still comparatively young, an increase in the Acts passed each year was normal. For the decade 1857-1866, the annual average was 136 Acts, of which four-sevenths were for new lines—*i.e.*, branches, extensions, and new companies—and the remainder for additional powers.<sup>1</sup>

The number of amalgamations in this period was negligible until the sixties. In 1850, 1851, 1856, and 1860 there was not a single amalgamation of English railways.<sup>2</sup> In 1853, 1855, 1857, and 1860 there was only one Amalgamation Act each year, and between 1850 and 1861 no more than three such Acts were passed in any one year. From 1862 to 1866 the number increased considerably, but it is impossible to make any exact comparisons with earlier periods, as the form of the annual Board of Trade Returns was altered from 1860 onwards. In that year a useful addition was made by including working agreements and by separating English and Scotch Acts, but the old practice of giving the mileage absorbed was abandoned.<sup>3</sup> The Acts were no longer given under the year in which

<sup>1</sup> See Appendix E.K., Royal Commission on Railways, 1867, where the Acts are enumerated in a summary list, and then given separately in chronological order.

<sup>2</sup> In 1856, beyond one Scotch amalgamation, there was nothing in the way of amalgamation lease or purchase in the United Kingdom. In 1850 and 1861 one and five Scotch amalgamations respectively were passed; there were also a few leases and sales in these years. In 1851 there was no Amalgamation Act—English, Scotch, or Irish.

<sup>3</sup> Accounts and Papers, 1860, LXI., No. 565.

they were passed, but under the one in which they came into operation. After 1867 the whole record was given up, and though a summary table of amalgamations,<sup>1</sup> etc., was prepared occasionally, the annual detailed tables ceased to appear in the Board of Trade Returns, and were not again included until 1900.

The important amalgamations were few in number; two only need be discussed. Both of them were in the East of England, where hitherto the progress in consolidation had been limited to small things. By the one the North Eastern Railway was formed in 1854, by the other the Great Eastern Railway in 1862.

The North Eastern Railway<sup>2</sup> was a fusion of three companies, each of which had been built up by previous amalgamations. They were :

1. The York, Newcastle, and Berwick, incorporated in 1842 as the Newcastle and Darlington, subsequently increased by the purchase of various companies including the Great North of England in 1846,<sup>3</sup> and given the above name upon amalgamation in 1847 with the Newcastle and Berwick.<sup>4</sup>

2. The York and North Midland, incorporated in 1836.

3. The Leeds Northern, incorporated in 1845 as the Leeds and Thirsk and renamed in 1851.<sup>5</sup>

These three companies at their amalgamation in 1854 had capitals of £12,838,808, £8,114,999, and £3,277,932 respectively.<sup>6</sup> Their Amalgamation Act gave them

<sup>1</sup> Accounts and Papers, 1867-68, LXII., No. 242 : Return of Bills containing provisions for amalgamation, 1860-68 (with a map). The return was brought up to 1871 by Appendix Y. of the Report on Amalgamation, 1872.

<sup>2</sup> 17 and 18 Vict., c. 211.

<sup>3</sup> On purchasing the Great North of England, the Newcastle and Darlington changed its name to the York and Newcastle (9 and 10 Vict., c. 242).

<sup>4</sup> Newcastle and Berwick Railway incorporated, 1845 (8 and 9 Vict., c. 163).

<sup>5</sup> 14 and 15 Vict., c. 47.

<sup>6</sup> Report of Board of Trade to General Committee on Railway Bills. Accounts and Papers, 1854 (139), LXII., p. 12.

power to add the Malton and Driffield, and this fourth company was absorbed before the end of the year, giving the new North Eastern system a total mileage of 678.<sup>1</sup>

This combination—the York Alliance, as it was termed—seems to have been generally welcomed, and received little opposition or criticism. The *Railway Times* considered the amalgamation as “an earnest at the hands of Parliament that a really good case may assure itself of success.” The amalgamating companies had previously worked together in friendly co-operation, and there was no question of competition being restricted by their consolidation.<sup>2</sup>

The new company had several more amalgamations to accomplish before it became complete master of the north eastern district. The Hartlepool Dock and Railway was absorbed in 1857,<sup>3</sup> the Bedale and Leyburn in 1859,<sup>4</sup> the Hull and Holderness<sup>5</sup> and the Newcastle and Carlisle in 1862,<sup>6</sup> and the Stockton and Darlington in 1863.<sup>7</sup> The last was an important addition to the North Eastern Railway, for the Stockton and Darlington had grown a good deal since 1821; an amalgamation with four other companies in 1858 had increased its mileage from 51 to 128.<sup>8</sup> The North Eastern and

<sup>1</sup> Accounts and Papers, 1854-55, XLVIII. (510); Mihill Slaughter, “Railway Intelligence,” No. ix., 1856. Some particulars (up to 1847) of the lines which composed the N.E.R. system may be found in Scrivenor’s “Railways of United Kingdom” (1849).

<sup>2</sup> *Railway Times*, 1854, July 22, p. 774. See also a leading article on May 13 (p. 500), in which the General Committee is attacked for its delay in dealing with the Railway Bills of the year. The writer of the article then turns to the relations of railway companies to each other, and consoles himself with the improvement he finds there: “The testimony of successful co-operative action is the best argument for open amalgamation. The longer the York Alliance is permitted voluntarily to develop its necessity or value, the more perfect must its claim for Parliamentary approval become.”

<sup>3</sup> 20 and 21 Vict., c. 33.

<sup>4</sup> 22 and 23 Vict., c. 91.

<sup>5</sup> 25 and 26 Vict., c. 120.

<sup>6</sup> 25 and 26 Vict., c. 145.

<sup>7</sup> 26 and 27 Vict., c. 122.

<sup>8</sup> Stockton and Darlington (51 miles), Darlington and Barnard Castle (15), Middlesbrough and Redcar (7), Middlesbrough and

the Stockton and Darlington were closely connected for the working of through traffic in 1861, and amalgamation was sanctioned by resolutions of the shareholders in 1862,<sup>1</sup> but before this was accomplished in July, 1863, the Stockton and Darlington had in January attached three more separate companies to itself.<sup>2</sup>

Further amalgamations were made by the North Eastern, notably, with the West Hartlepool and Cleveland in 1865,<sup>3</sup> with the result that the Joint Committee of 1872 were justified in describing it as "the most complete monopoly in the United Kingdom."<sup>4</sup> Their Report, however, considered that the monopoly was the reverse of oppressive. "The case of the North Eastern is a striking illustration" of the claim that the balance of advantage to public and shareholders may be on the side of amalgamation. "That railway is composed of thirty-seven lines, several of which formerly competed with each other. Before their amalgamation they had, generally speaking, high rates and fares and low dividends . . . now the system has the lowest fares and the highest dividend of any large English railway. It has had little or no litigation with other companies. Whilst complaints have been heard from Lancashire and Yorkshire, where there are so-called competing lines, no witness has appeared

Guisborough (12), Wear Valley (43)—amalgamated as Stockton and Darlington, September, 1858 (21 and 22 Vict., c. 116).

<sup>1</sup> Mihill Slaughter, "Railway Intelligence," No. XII., 1863, p. 168. See also for N.E.R. and Stockton and Darlington Railway generally, chap. xvii. of J. S. Jeans' "Jubilee Memorial of the Railway System : A History of the Stockton and Darlington Railway, 1875." The Act amalgamating the two railways is briefly abstracted (p. 301). The book is rather rambling, and contains some misleading remarks—e.g., p. 132: "The Stockton and Darlington was the parent and nucleus of the N.E.R."

<sup>2</sup> The South Durham and Lancashire Union (35 miles), the Eden Valley (21), and the Frosterley and Stanhope (3), 25 and 26 Vict., c. 106. The list of N.E.R. amalgamations in Appendix A of Report on Amalgamation, 1872, is not correct here.

<sup>3</sup> 28 and 29 Vict., c. 368.

<sup>4</sup> Report on Amalgamation, 1872, XXVII.

to complain of the North Eastern ; and the general feeling in the district it serves appears favourable to its management.”<sup>1</sup>

The Great Eastern Railway was formed in 1862 by the fusion of five companies :

1. The Eastern Counties incorporated in 1836.<sup>2</sup>
2. The Norfolk, made up in 1845 by an amalgamation of the Yarmouth and Norwich, and Norwich and Brandon.<sup>3</sup>
3. The Eastern Union, incorporated in 1844,<sup>4</sup> and increased from twenty-eight to ninety-four miles by amalgamation with the Ipswich and Bury St. Edmund's in 1847.<sup>5</sup>
4. The East Anglian, an amalgamation in 1847 of the Ely and Huntingdon, Lynn and Ely, and Lynn and Dereham.<sup>6</sup>
5. The Newmarket, incorporated in 1846.<sup>7</sup>

The amalgamation had been foreshadowed in 1854 when the Eastern Counties Company obtained an Act empowering it to work the Norfolk and the Eastern Union, profits being divided in the proportion of five-sevenths to the Eastern Counties and one-seventh each to the other two companies. The Act further provided that the Eastern Counties must deposit a Bill before the year 1862, for uniting itself with the two companies it was working, and also the East Anglian and the Newmarket ; none of these five companies might oppose the principle of the Bill, though they might question details, disputes on which were to be settled by the Board of Trade.<sup>8</sup>

<sup>1</sup> Report on Amalgamation, 1872, XXVII.

<sup>2</sup> 6 and 7 Wm. IV., c. 106. The G.E.R. Act of 1862 is 25 and 26 Vict., c. 223.

<sup>3</sup> 8 and 9 Vict., c. 41.

<sup>4</sup> 7 and 8 Vict., c. 85.

<sup>5</sup> 10 and 11 Vict., c. 174.

<sup>6</sup> 10 and 11 Vict., c. 275.

<sup>7</sup> 9 and 10 Vict., c. 172. It was originally called the Newmarket and Chesterford, but became the Newmarket in 1847 (10 and 11 Vict., c. 20).

<sup>8</sup> 17 and 18 Vict., c. 220. M. Slaughter, “ Railway Intelligence,” 1859, No. X., p. 33.

In accordance with this Act of 1854 the three first-mentioned companies were worked together, and the amalgamation of all five in 1862 surprised nobody, and excited little interest except in the financial world, where the difficult task of allotting Great Eastern shares in exchange for the various securities (mostly poor ones) of the separate companies provoked some criticism.<sup>1</sup> Criticism and satire, however, had been the lot of the unfortunate Eastern Counties, and to a smaller extent of its partners, for many years, and the amalgamation of 1862 did not immediately remove them. The new system had a long uphill struggle before it entered on prosperous days in the nineties.<sup>2</sup>

The original Eastern Counties was 139 miles in length; the Great Eastern of 1862 owned about 540 miles of railway.<sup>3</sup> "By subsequent additions its mileage open in 1870 had become 874, with almost exclusive possession of the principal counties to which it extended."<sup>4</sup>

A few other amalgamations effected between 1854 and 1871 must be noticed. The struggle for the Shrewsbury lines was ended in 1854 by the Great Western Railway absorbing the Shrewsbury and Chester and the Shrewsbury and Birmingham, together ninety-three miles.<sup>5</sup> In 1863 the Great Western added to itself not only the West Midland, a system of 203

<sup>1</sup> Herapath, May 17, 1862, p. 523 (*Report on Eastern Counties Bill*); also pp. 544, 566. See also "Why does it not Pay?" anonymous pamphlet (London : Baily Bros., 1859).

<sup>2</sup> See W. M. Acworth, "The Railways of England" (fifth edition, 1900), chap. x., for criticisms of the Eastern Counties and for the progress of the G.E.R.

<sup>3</sup> The figure given by the Report on Amalgamation, 1872, is 629, but this includes the East Suffolk and the Wells and Fakenham, which were amalgamated separately with the Great Eastern in 1862, and were not parties to the amalgamation forming the G.E.R. that year. [See list of amalgamations in 1862 in Accounts and Papers, 1863 (492), LXII.]

<sup>4</sup> Report on Amalgamation, 1872, p. xvi.

<sup>5</sup> 17 and 18 Vict., c. 222. The conditions of the Act are discussed in the Report to the Lords of the Committee for Trade, 1854 [Accounts and Papers, 1854-55., XLVIII. (1,965), p. ix.].

miles formed in 1860 by the amalgamation of three companies,<sup>1</sup> but also the South Wales,<sup>2</sup> 173 miles in length.

In 1858 the London and North Western took over the Chester and Holyhead,<sup>3</sup> and in 1859 the Lancashire and Yorkshire amalgamated with the East Lancashire.<sup>4</sup> Beyond these there were no other English consolidations of great importance, but we might mention that in Scotland the Caledonian amalgamated with the Scottish Central in 1865, and with the Scottish North Eastern in 1866,<sup>5</sup> and the recently consolidated North British was united with the Edinburgh and Glasgow in 1865.<sup>6</sup>

After 1866 there was a sudden fall in the number of proposals for combination or amalgamation submitted to Parliament, as may be seen in the following table<sup>7</sup> for Great Britain :

Session.	Bills for Amalgamation (including Sales and Leases).			Bills providing for Working Arrangements.	
	Introduced.	Passed.	Miles added to the Amalgamating Companies.	Introduced.	Passed.
1860	21	14	267	58	40
1861	23	16	249	82	51
1862	32	24	856	58	40
1863	27	21	888	78	42
1864	23	17	424	125	59
1865	33	27	1,082	143	71
1866	45	34	958	98	42
1867	22	10	230	23	7
1868	9	3	73	14	5
1869	7	7	106	6	2
1870	6	5	112	14	9
1871	10	9	71	23	15

<sup>1</sup> The Oxford, Worcester, and Wolverhampton, the Newport, Abergavenny and Hereford, and the Worcester and Hereford (23 and 24 Vict., c. 81).

<sup>2</sup> 26 and 27 Vict., c. 198.

<sup>3</sup> 21 and 22 Vict., c. 130.

<sup>4</sup> 22 and 23 Vict., c. 110.

<sup>5</sup> 28 and 29 Vict., c. 287; 29 and 30 Vict., c. 350.

<sup>6</sup> 28 and 29 Vict., c. 308.

<sup>7</sup> Taken from Appendix Y, Report on Amalgamation, 1872. It must be observed that the figures in the fourth column do not

These figures suggest a parallel with the railway mania of the forties and the financial crisis of 1847. The crisis of the sixties is named after the firm of Overend Gurney, who closed their doors on May 10, 1866. After their failure confidence and buoyant hopes of increasing trade were replaced by depression and timidity. Railway promotion and activity were abruptly curtailed as in 1847. As in 1847, a financial collapse terminated a period of speculation and of undue eagerness for extension in the railway world, and the railway companies suffered in common with all other industrial and commercial undertakings from the inevitable reaction.

The parallel can, however, hardly be carried any further. The circumstances of the sixties were peculiar. Lancashire had been terribly affected by the American Civil War ; the money market was upset by the rise of prices following the great gold discoveries. The bank rate was abnormally high ;<sup>1</sup> the increase in trade and in speculative activity was sudden and spasmodic.<sup>2</sup>

As to the railway world the increasing competitive scramble in the sixties was largely a fight for lines that were already in existence. True, the number of Acts passed each year up to 1866 was large ; the 231 Acts passed for railways in Great Britain in 1865 may be com-

necessarily represent the exact mileage transferred by amalgamation from one company to another ; they represent the mileage for which amalgamation was *sanctioned*. In a note, however, it is stated that the figures "afford a tolerably correct idea" of the amalgamations actually carried out. In the table from which the figures are taken the mileage affected by the working arrangements is also given ; but we omit this, as the arrangements were frequently not carried out, or were superseded by sales, leases, or amalgamations.

<sup>1</sup> In 1863 the rate varied from 3 to 7 per cent. ; in 1864 from 6 to 9 ; in 1865, from 3½ to 7 ; starting at 8 in January, 1866, it reached 10 per cent. in May of that year (Mihill Slaughter, "Railway Intelligence," No. XIV. [January, 1867], p. 301).

<sup>2</sup> *Economist*, July 22 and 29, 1865 (pp. 877 and 909) : "The Increasing Value of Money" ; March 12, 1864 (p. 317) : "Great Increase in Export Trade" ; November 4, 1865 (p. 1329) : "Sudden Increase in Trade, and its Effect upon the Money Market."

pared with the record total of 249 in the year 1846. But in the earlier year only 52 of the Acts were for additional powers, and the majority of the rest were for incorporating new companies. In 1865, on the other hand, the total included 79 Acts for additional powers ; there were but 62 Acts for new companies, and the remainder, nearly 100 Acts were for branches and extensions of existing companies.<sup>1</sup> These and the new companies were small affairs<sup>2</sup> and the demand for railway capital was slight compared with the millions involved in the Railway Acts of the forties. Speculation of a more or less reckless type was prominent in the boom of the sixties as it had been in the forties, but at the later date the railways and their backers were mainly damaging themselves, and could not be accused as they had been in 1847, of dealing a blow to the commercial world in general.<sup>3</sup>

<sup>1</sup> See the summary and detailed tables of Railway Acts, 1801-1866, in Appendix E K.; Report of Royal Commission, 1867. The new incorporations of 1865 are given by Mihill Slaughter ("Railway Intelligence," No. XIV., p. 288). Four of these (excluded from total above) are Irish. One is for a pneumatic railway from Waterloo to Whitehall. Several are for short lines in Wales, Cornwall, Scotland, and in the Great Eastern Railway district. Many, though nominally independent, were practically in connection with existing companies, or were soon taken over by them (*e.g.*, Deal and Dover, East London, Fishguard, Severn Junction).

<sup>2</sup> The *Economist*, criticizing railway affairs, spoke of the minor new railways, and the ruin of their promoters, as if there had been no promotions save these small ones (March 31, 1866, p. 378).

<sup>3</sup> *Economist*, September 1, 1866, p. 1022 : "Non-Paying Railways." The article suggests that insolvent railways might have aggravated the late crisis, but does not follow up the suggestion or attempt to make a case out of it. The *Economist* was hostile to the companies, and talked of the insecurity of railway debentures (August 12, 1865, p. 970; also *Investors' Monthly Manual*, March 30, 1867, p. 110). The Chatham was the only company that was actually insolvent, though the North British and the Great Eastern were in difficulties. Herapath took the view that the general railway position was generally sound, and that the crisis would be beneficial in leading to better management of the weak companies. He deplored the talk about insecurity of debentures, and considered it the reason for the failure of railway stocks to revive with the improving money market. "Extreme want of confidence in securities of the highest value" was a sign of the "immeasurable madness of the public" (December 29

Captain Tyler, of the Board of Trade, in comparing the railway statistics of 1858 and 1870<sup>1</sup> thus characterized the speculation and the contests which were prominent in the middle of that period: "As the trunk of the railway system approached completion, the spirit of rivalry became rampant . . . and great companies fought with one another, Session after Session, for the privilege of constructing additional portions of railway which it was frequently not to their advantage to undertake. Impelled partly by territorial ambition, partly by apprehension of invasion or competition, they damaged themselves not only by direct expenditure before Parliament . . . but also by too eagerly grasping at quasi-independent lines constructed for the purpose by ingenious promoters. . . . Thus, rather than by legitimate enterprise, the railway system extended with unhealthy rapidity. The difficulties thus incurred led to depression and temporarily affected the companies which were in a sound as well as those which were in an unsound condition ; it was only the extraordinary elasticity and progressive increase of railway traffic that enabled some of the former to return more readily, and others more gradually to a condition of prosperity. . . . In the meantime the general wreck which followed on the panic of 1865 (*sic*) has led to the failure of many of the schemes then projected, and forty-two warrants of abandonment have been issued by the Board of Trade under the Railway Companies Act of 1867. . . . The construction of new lines, excepting those undertaken by wealthy companies, almost ceased after that panic, and though there is now (1871) an indication of returning confidence on the part of the public in subscribing to schemes . . . it

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1866, p. 1411). See also Herapath, November 3, 1866, p. 1220, leading article, "Money": "railway stocks greatly depressed"; November 10, p. 1249: "Monstrous depression . . . panic feeling."

<sup>1</sup> Report on Amalgamation, 1872, Appendix N, p. 828. See below, p. 260, note 1.

will apparently be some time before railway construction can be expected again to proceed at the same rate and under the same system as before 1866."

Captain Tyler's picture is a little over-coloured, but, nevertheless, it presents a graphic view of the situation. We may add to it the opinions expressed by another official of the Board of Trade, Captain Douglas Galton. In the table above, the number of working arrangements, or agreements, as they are more commonly called,<sup>1</sup> is noticeable. The number of bills for such purposes had been commented upon by Board of Trade Reports in 1854 and 1855,<sup>2</sup> and a scheme for facilitating working arrangements was put before the Committee of 1858 by Mr. James Booth.<sup>3</sup> It is interesting only as a relic of the ideas of Cardwell's Committee. Captain Douglas Galton gave evidence before this Committee of 1858, and stated that Parliament had observed the recommendation of 1853—that working arrangements should only be granted for limited periods—and that these arrangements appeared to have been to the advantage both of the companies and the public.<sup>4</sup> Running powers, he said (again in accordance with the views of the Cardwell Committee), had been discouraged.<sup>5</sup> Finally, he made some remarks which, together with

<sup>1</sup> They are called "agreements" when in 1860 they are first recorded in the lists of amalgamations, etc. (*Accounts and Papers, 1860*, LXI., No. 565), but in 1864 the name is changed to "arrangements" (*Ibid.*, 1864, LIII., No. 20).

<sup>2</sup> Report to Lords of Committee for Trade on proceedings of Department relating to Railways, in *Accounts and Papers, 1854-55*, XLVIII. [1965], p. viii. Report of Railway Department on Bills of 1855, same vol. (121), p. 14. Report of Board of Trade to General Committee, *Accounts and Papers, 1854*, LXII. (139), p. 14.

<sup>3</sup> Reports of Committees, 1857-58, XIV. (411), Appendix and Evidence, Questions 527-529. <sup>4</sup> Evidence, Questions 389, 395.

<sup>5</sup> Evidence, Question 25. See also Report to Lords of Committee for Trade for 1854, in *Accounts and Papers, 1854-55*, XLVIII. [1965], p. ix : nineteen Bills containing running powers were promoted, only six passed. This report gives a good idea of the attitude of the Railway Department to working arrangements generally.

Captain Tyler's may be used to sum up the whole period from 1854 to 1871. The Committee had taken him through the recommendations of 1853, one by one, and though he stated without hesitation that the attempt to obtain greater uniformity in railway legislation and the attempt to diminish Parliamentary expenses had failed, he agreed that the "gigantic amalgamations contemplated in 1853" had been put aside, and that those which had been effected only made the amalgamated lines equal to companies already in existence.<sup>1</sup>

Then he was asked for his opinion of the Traffic Act of 1854, and replied that "it had had a certain deterring effect upon companies—had rather caused them to come to arrangements with each other, or prevented them from acting in a way which may, under the Act, be called illegal."<sup>2</sup>

Probably the safest conclusion we may draw is that the Act of 1854, though positively of little effect, had on the negative side this deterring influence, and helped to harmonize the traffic relations between the companies. But by 1872 its period of limited utility was at an end; new amalgamation schemes had brought on a fresh inquiry, and though the principle of the Act was considered useful, a drastic change was attempted in the method of its execution.

Just as the railway mania and the crisis in 1847 had been followed by years of depression and then a sudden revival, large amalgamation schemes, and the resulting inquiry by Parliament, so now after the crisis of 1866 there was the same cycle of events.

To a certain extent the activity in railway matters that appeared in 1871 was forced on by the policy of the Midland Railway. The Midland promoted a bill

<sup>1</sup> Reports of Committees, 1857-58 (411), Evidence, Questions 21-24, and 205-207. He justified the North Eastern amalgamation on the ground that it afforded a continuous route from Normanton to Berwick.

<sup>2</sup> *Ibid.*, 288, 290.

to amalgamate with the Glasgow and South Western in 1867. This was rejected by the House of Lords, after successfully passing through the Commons, mainly on the ground that there was no physical connection between the two companies,<sup>1</sup> though an Act for the Midland extension from Settle to Carlisle had been obtained in 1866. After the financial collapse of 1866, the construction of the line from Settle to Carlisle was put off, and its abandonment contemplated, but in 1870 the work was commenced, and at the beginning of 1871 was making good progress.<sup>2</sup>

The North Western were therefore faced with the prospect of a rival route to Scotland; moreover, the Midland now possessed direct access to London; their great station at St. Pancras was opened in October, 1868. Further than this, the Board at Euston were threatened with an alliance of the Midland and the Great Northern with the Manchester, Sheffield, and Lincoln, in 1869,<sup>3</sup> and they knew that on reaching Carlisle the Midland would again propose amalgamation with an important Scotch company. Naturally, the North Western took action. At the end of 1871 they made their counter-move by giving notice for amalgamation with the Lancashire and Yorkshire.<sup>4</sup> As was expected, the Midland and Glasgow and South Western Amalgamation Bill was re-announced at the

<sup>1</sup> Evidence of Mr. J. Allport, Question 349, Report on Amalgamation, 1872.

<sup>2</sup> Half-Yearly Reports of Midland Railway. Herapath, February 12, 1870 (p. 150); February 11, 1871 (p. 122). The Midland were anxious to abandon the Settle and Carlisle extension in the bad times following the crisis of 1866, securing access to Carlisle by arrangement with the North Western. Their application to Parliament, however, in 1869, to abandon the Bill was rejected; the Lancashire and Yorkshire were the chief opponents to the application. See Stretton, chap. xxiv., and Report on Amalgamation, 1872. Evidence, Questions 349, 350, 374.

<sup>3</sup> Herapath, April 17, 1869 (pp. 398, 406); April 24 (p. 433). See also Sir Edward Watkin's evidence, Question 4,542. Report on Amalgamation, 1872.

<sup>4</sup> Herapath, November 25, 1871 (p. 1171).

same time.<sup>1</sup> Nine other amalgamation Bills, all small ones, and seventy-one Bills for working arrangements were also deposited.<sup>2</sup> Among the latter was a proposal for the Great Western, the Midland, and the South Western, to work jointly a projected South Midland Company of 110 miles;<sup>3</sup> also a proposal by the Great Northern for agreements—and, if necessary, the appointment of a joint committee—between themselves, the Midland, the North Western, and the North Staffordshire. A similar arrangement was proposed by the Great Western, the Bristol and Exeter, the South Devon, and the South Western. Naturally such large schemes as these turned much attention to the railway world. When Parliament met in the first week of February, 1872, the question of amalgamation was once more causing a ferment of excitement and doubt in commercial circles. Once more there was a general feeling that competition was about to disappear, that amalgamation on a large scale implied monopoly and the loss of facilities.

This will be discussed in the next chapter. Here, in concluding our examination of the period from 1840 to 1871, we are tempted to ask the question : “ How far were the great companies trying to suppress competition, how far were they seeking to consolidate in order to compete more effectively ? ” The fact that a crisis in 1847 was followed by some years of painful depression, and then by some great amalgamation schemes, and that after the crisis in 1866 there was the same depression followed after a similar interval by similar schemes, suggests that these amalgamations were the result of the financial

<sup>1</sup> Herapath, November 18 (p. 1146).

<sup>2</sup> Appendix Y., Report on Amalgamation, 1872. A list of the Bills proposed for Session 1872 is given ; there are eleven Amalgamation Bills, but in the summary they are added up to make nine.

<sup>3</sup> The South Midland scheme aimed at connecting South Wales with Southampton. It is described in Herapath, November 25, 1871 (p. 1188). A previous South Midland project in the forties (Wigston to Hitchin) is mentioned by Stretton, p. 154.

difficulties ; in other words, that the need for them was conclusively shown in the time of depression, when means of economizing were strenuously sought after, and that they were proposed as soon as the effects of the crisis had passed off, and prosperity began to return. If this be true, a generalization to the effect that hard times lead to combination might be established. But in the great amalgamating period in the forties, the connection with antecedent bad times is not noticeable, and the movement was mainly the result of good times and confidence in railway prosperity. The desire to effect economies enters into all amalgamation schemes, but the degree of its intensity varies greatly. Such a scheme as that, which resulted in the North Eastern Railway fusion in 1854, was primarily governed by the desire for economy ; a number of competing companies whose interests were closely connected, and who had little outside competition to consider, were no doubt taught the need of combination by the crisis of 1847, and their fusion, seven years later, was the direct result of the crisis and the imperative claims of economy. The same, perhaps, applies to the proposed union of the L. and N.W.R. with the L. and Y., in 1872. But here it is more difficult to assign a single motive to the scheme ; it might aim directly at economies, but it would undoubtedly enable the combined companies to compete more powerfully with their neighbours. The psychology of the question is not easily set out. Companies may have planned their fusions with the desire to save expense—a desire forced on them by times of ill fortune—without appreciating the menace of their schemes to adjoining companies.

On the whole it seems unsafe to attempt a generalization, unless it is to the effect that the amalgamating spirit is peculiarly contagious. Once a few great fusions are planned, whatever the motive may be, many others are encouraged—defensive, offensive, or purely adventurous.

## CHAPTER X

1872-73

### PART I.—THE RAILWAY CAMPAIGN OF 1872

WE shall now deal with the events of 1872 and 1873, and in order to simplify the treatment of a somewhat involved subject it is broken up into three parts. The first part deals with the consolidation Bills put forward by the railway companies in 1872, the second part with the Parliamentary inquiry into amalgamation that year, and the third part with the Railways Regulation Act of 1873. This Act was the one practical result of the whole business, the slender outcome of a big campaign and an important inquiry. Like some previous chapters, therefore, these are largely a record of failure, and interest centres not so much in what was, as in what was not accomplished. But the record deserves to be given in detail, for it throws light on the ambitions of the railway companies, and it marks the contrast between, on the one hand, an able Committee's moderate yet comprehensive recommendations on State policy towards railways, and, on the other hand, the limited measure of control actually sanctioned by Parliament.

The English railway system in 1872 was in its main outlines little different from that of to-day.<sup>1</sup> Since then many short lengths of line in the middle of England have been absorbed by the great systems; the

<sup>1</sup> Report on Amalgamation, 1872, Appendix Y; map showing railways under control of principal companies. Also Departmental Committee on Amalgamation, 1911, Appendix III.; table showing English railway companies owning more than one-hundredth of the total mileage in 1872 and in 1907.

Sheffield company has become a trunk line, the Great Central; and consolidations in the southern corners of England have extended the Great Western mileage and have united the Kentish railways. But with these exceptions the great systems of to-day were all in existence in 1872, occupying the territory they now hold. Their activities since then have consisted chiefly in the construction of branches, and in outlay on widenings and improvements of permanent way, on docks, stations, mechanical apparatus, and rolling stock.

The following table gives a comparative view of railway progress :

RAILWAYS OF THE UNITED KINGDOM.<sup>1</sup>

	Mileage.	Capital.	Receipts.	Expenditure.
1858	9,542	£ 325,375,000	£ 23,956,000	£ 11,738,000
1870	15,537	529,908,000	45,078,000	21,715,000
1890	20,073	897,472,000	79,948,000	43,188,000
1911	23,417	1,324,018,000	127,199,000	78,617,000

Unfortunately it is not possible to make a comparison of this sort with reference to England alone, but the following figures show the distribution of the mileage :

	England and Wales.	Scotland.	Ireland.
1858	7,001	1,353	1,188
1870	11,043	2,519	1,975
1890	14,119	3,162	2,792
1911	16,200	3,815	3,402

<sup>1</sup> Table compiled from Report on Amalgamation, 1872, Appendix N, and Railway Returns for 1911 (Cd. 6,306, 1912), pp. xviii.-xix. The 1858 figures exclude expenditure and receipts in connection with steamboats, harbours, etc.; judging from the 1870 figures, the excluded figures were not important.

And reference to the financial statistics that are available shows that the contribution of England to the totals of capital, revenue, and expenditure in the United Kingdom is greater proportionately than in the case of the mileage figures.

Turning now to the great amalgamations which the railway companies attempted, but failed, to carry out in 1872, the position early in that year was thus graphically described by Mr. Haughton, a well-known engineer:<sup>1</sup> "The London and North Western Railway, greatest of the family of companies, have gone to Parliament this Session to unite their 1,500 miles with the 427 miles of the Lancashire and Yorkshire; other companies have thereupon made 'provisional amalgamations'; the Caledonian seizes the North British; the S.E.R. and the Brighton approach each other; the N.E.R. is said to coquette with the G.N.R., and a cordial understanding is arrived at between the G.W.R. and the L. and S.W.R. . . . while the Midland annexes the Glasgow and South Western." Chambers of Commerce were agitated, but "amid all this gathering in hot haste, speechifying and discussion, no common platform exists." The *Times* summed up the question: "It is easier to say that the public should be protected from a new monopoly than to say what form that protection should take."

Mr. Haughton's words do not overstate the stir which the railways were causing. But though the Bills of the year for amalgamation and for working arrangements included every important company in England, and most of the Scotch companies, the main interest was centred in the proposed union of the L. and N.W. and the L. and Y., and many of the other schemes were not very seriously considered. Some were put forward tentatively by their framers to

<sup>1</sup> Railway Amalgamation. A paper read before the Civil and Mechanical Engineers Society, on March 15, 1872, by B. Haughton, Past President of the Society.

test the attitude of Parliament, others were defensive—necessary if the North Western scheme were sanctioned, unimportant if it failed.

A period of enforced quiescence had been undergone. Now the North Western proposal roused every company to activity. No doubt if all the companies had solemnly agreed to stand still, all might have lived contented, but as soon as one large company suggested an amalgamation, all the others began to talk of the territorial enlargements which they might advantageously make. Sir Edward Watkin, the most ambitious and restless of railway chairmen, was always planning unions for his Manchester, Sheffield, and Lincolnshire Company. Mr. Denison expressed rather forcibly (as was his manner) the view which the Great Northern Company held of Sir Edward Watkin and his company which had “hawked itself about as buyer, as seller, as guarantor and guaranteee.” There is, he said, “no conceivable bargain to which they have not been parties. . . . When they ask for running powers, they are very often for the purpose of being sold to the persons over whom they are got, as a nuisance. The next time the M. S. and L. Company goes into the market, there will be this excellent property to sell: running powers over the Great Northern, valued at I don’t know what.”<sup>1</sup>

In the Bills of 1872, the Sheffield Company was concerned in proposals for working arrangements with most of the great companies, including the Great Northern,<sup>2</sup> and Sir Edward Watkin told the Joint Select Committee of 1872, in the most candid way, that if the North Western amalgamation succeeded other companies, feeling insecure, would at once propose amalgamations for themselves. His own company would look to the Midland or the Great Northern, perhaps to both. He considered that the amalgamation of the

<sup>1</sup> Grinling, p. 255.

<sup>2</sup> The list of Bills is given in Appendix Y., Report on Amalgamation, 1872.

Midland, the Great Northern, and the M. S. and L. might reasonably be demanded of Parliament.<sup>1</sup> But he readily agreed to giving the Great Northern absolute running powers over his company, if he amalgamated with the Midland,<sup>2</sup> and his evidence contained an interesting statement of the possibilities of a general amalgamation which would maintain competition; by "lopping off a little here, adding on a little there," and by large fusions he would create two or more powerful systems competing for the traffic of all the large towns of England.<sup>3</sup> This suggestion was much the same as the one by which Mr. Haughton proposed to solve the amalgamation problem.<sup>4</sup> He argued that competition might be retained in all its original vigour by an arrangement which consolidated the railway companies into four great systems, at least three of which should run north and south throughout the length of England and Scotland. He sketched his four systems, calling them the Great Western, North Western, Midland, and Great Northern, and showed how the railways of the country would be divided amongst them, and how they would maintain competition between the most important commercial centres of the Kingdom. The scheme could not be applied in detail to the railway system of to-day, for the Sheffield Company—the bone of contention which Mr. Haughton assigned to the Midland—has since become a trunk line, and the London, Chatham, and Dover Company, which he also assigned to the Midland (giving that company "a clear run from Dover to Dunrobin") has since united with the South Eastern Railway, which in Mr. Haughton's scheme formed the southern end of the North Western system. Nor did he contemplate the possibility of his four great systems lessening their number by further consolidation, but his ideas are

<sup>1</sup> Report on Amalgamation, 1872, Appendix Y., Evidence; Questions 4,650-53.

<sup>2</sup> *Ibid.*, Question 4,542.

<sup>4</sup> Above, p. 238.

<sup>3</sup> *Ibid.*, Questions 4,655-56.

ingenious, and they are interesting, not only as an attempt to work out in detail the suggestions for "railway districts" that were made in 1872, but also as a partial anticipation of the through train system which the companies have been introducing in recent years.<sup>1</sup>

We have said that the biggest of the amalgamation proposals of 1872, and the one that chiefly interested the public, was that of the L. and N. W. and the L. and Y. These two companies worked "about 2,000 miles of railway, or upwards of one-eighth of the railway mileage of the United Kingdom; their joint capital amounted to £78,000,000, or about one-seventh of the railway capital of the United Kingdom; and their joint receipts for 1871 amounted to £9,672,000, or more than one-fifth of the railway receipts for the United Kingdom."<sup>2</sup>

The boards of the two companies were very confident, and they planned their amalgamation so that it should date from January 1, 1872, provisional arrangements being made for working the traffic of both lines, and for the division of receipts pending amalgamation.<sup>3</sup> This, no doubt, was a comparatively simple matter, for the two companies had worked in harmony for over thirty years, and the question of amalgamation had arisen out of the proposed renewal of one of their ten-year agreements.<sup>4</sup> But when Parliament appointed a Joint Committee to examine the question of amalgamation, and when the second reading

<sup>1</sup> See Report of Board of Trade Railway Conference, 1909, pp. 19-21. Mr. Haughton read a similar paper ("The Railways Amalgamated and grouped in Competing Systems") before the British Association, Section F, at Bradford, September 18, 1873. He made no reference to the failure of the Amalgamation Bills of 1872.

<sup>2</sup> Report on Amalgamation, 1872, Appendix N; Captain Tyler's Report, p. 829.

<sup>3</sup> Herapath, October 21, 1871. Report of special meetings of L. and N.W. and L. and Y. shareholders.

<sup>4</sup> *Ibid.*, speech of Mr. Moon. See also Report on Amalgamation, 1872. Evidence of W. Cawkwell, Question 32.

of the Amalgamation Bill was constantly postponed by the House of Commons, until it was withdrawn on July 23, the position might have appeared unfavourable. The two Boards, however, remained perfectly confident. Mr. Moon, the chairman of the L. and N.W., at the half-yearly meeting in August, 1872, declared that the case for amalgamation was stronger than ever ; he thought the Report of the Joint Committee on Amalgamation favoured the Bill, and he did not believe that Parliament would refuse what the company were again about to ask for.<sup>1</sup> The Amalgamation Bill provided that the L. and Y. were to receive 12s. 6d. per cent. dividend in excess of the L. and N.W., and the half-yearly dividend was now declared on these terms, 7 per cent. to the L. and N.W.,  $7\frac{5}{8}$  per cent. to the L. and Y. Mr. Moon expressed his hope that these were the smallest dividends the companies would ever pay. Herapath, however, the independent railway critic, had condemned the Amalgamation Bill on this very ground of dividends, some months earlier. The Bill proposed a permanent dividend advantage of 12s. 6d. per cent to the L. and Y. The dividends of the two companies for 1870, and for the first half of 1871 had justified this difference, but the L. and N.W. dividend for the second half of 1878 was at the rate of  $8\frac{3}{4}$  per cent., while the L. and Y. was only 8 per cent. Herapath considered that this was a fatal objection to the amalgamation terms,<sup>2</sup> and though he hedged a little when discussing the revival of the Bill for the Session, 1873 : "Time alone can solve the question whether Parliament will sanction this monster fusion ; if it does, there can be little doubt it will involve other extensive amalgamations," he then took the view that the L. and Y. were in such a prosperous condition that they could be indifferent to the project.<sup>3</sup>

<sup>1</sup> Herapath, August 24, 1872. See also L. and Y. half-yearly meeting reported in same number.

<sup>2</sup> *Ibid.*, February 10, 1872, leading article "Railway Amalgamation."

<sup>3</sup> *Ibid.*, October 5, 1872, article on L. and Y. Railway.

The Bill was re-introduced in 1873 and went before the Joint Committee of the Lords and Commons on Transfers and Amalgamations, a new body set up in accordance with a recommendation of the Committee on Amalgamation of the previous year, to the effect that "Amalgamation Bills should be referred to a Joint Committee of both Houses, specially selected, and that this Committee should, so far as may be found practicable, be permanent."<sup>1</sup> The Joint Committee was not permanent; in fact, it only sat in this one year, 1873,<sup>2</sup> but it celebrated its brief existence by rejecting the L. and N.W. and L. and Y. Bill. At the end of May, the Committee declared, without hearing the opponents, that the preamble was not proved.<sup>3</sup> The Bill for the amalgamation of the Midland and the Glasgow and South Western went through a similar process of postponement in 1872,<sup>4</sup> to be revived in 1873, and rejected by this same Joint Committee.<sup>5</sup>

This Bill had been considered certain of success. We have sketched its antecedents in the previous chapter. The Midland Board put the matter before their shareholders in February, 1872, thus:<sup>6</sup> The L. and N.W. and L. and Y. Amalgamation Bill, followed by the announcement of the Caledonian and the North British Companies that they were similarly bent and wished to include the Glasgow and South Western Company in their union, forced the Midland directors to consider their Scotch traffic. When the Midland had sought in 1869 to abandon their costly extension from Settle to Carlisle, they had been opposed and defeated by

<sup>1</sup> Report on Amalgamation, 1872, p. xii.

<sup>2</sup> Departmental Committee on Railway Amalgamations, 1911. Marwood's evidence, Question 93.

<sup>3</sup> *Railway News*, May 10 and June 7, 1873. See also Cohn, vol. i., p. 361.

<sup>4</sup> The Bill was withdrawn on August 9 (Herapath, August 17, 1872).

<sup>5</sup> *Railway News*, June 28, 1873, p. 875.

<sup>6</sup> Herapath, February 17, 1872. Report presented at Midland Railway half-yearly meeting.

the L. and Y. and the North British, which companies urged that they needed the extension.<sup>1</sup> The Midland had then pushed on with the extension. Their previous application for union with the Glasgow and South Western had only failed in the Lords because the two systems were not connected. "Your directors would have waited until the line was finished before making a second application. But the action of other companies has forced matters on, and we must apply now, instead of on the completion of the Carlisle line next year, as we should ordinarily have done." Dealing with rival Bills, the Midland Report went on to state that the company would be robbed of traffic by the amalgamation of the L. and N.W. and the L. and Y.,<sup>2</sup> by the G.N.R. extension into the Erewash Valley, and by the West of England Traffic Arrangements Bill ; "these Bills will be vigorously opposed, as well as some others of secondary importance by which the interests of the company will be injuriously affected." The vigorous opposition might also have had injurious effects on Midland revenue, but luckily there was little need for fighting in the end.

Here, indeed, was a typical manifesto of Midland policy. The position of the company, strongly entrenched in the heart of England, yet compelled by the very nature of its central position to be constantly struggling for outlets, necessitated a fighting policy, and its directors were never backward in this respect. Comparatively little of the Company's traffic could be called its very own, rivals stood by on each side, and

<sup>1</sup> See also the detailed statement of Mr. W. P. Price, M.P., chairman of the Midland : Evidence, Question 3,851, Report on Amalgamation, 1872.

<sup>2</sup> Mr. Price, the Midland chairman, spoke strongly at the meeting of the unjust schemes of the L. and N.W. and the L. and Y. If they were sanctioned the great centres of industry now open to the Midland would be handed over to the exclusive dominion of a new North Western ; "the district would become the mere Japan of the Railway Kingdom, within whose sacred confines no stranger would be allowed." Herapath, February 24, 1872.

the Midland lived by competition which at all times stimulated the company to efficiency,<sup>1</sup> while prompting it to strike out further and further from the centre, towards London, towards Scotland, into the north-east, and down into the south-west—in the Report mentioned above, the Midland directors spoke of the large traffic in the Great Western territory to which they were geographically entitled. Moreover, its position naturally made the Midland a pioneer in railway enterprise. In this year, 1872, the company startled the railway world by admitting third-class passengers to all their trains, and three years later by abolishing the second-class and making important reductions in first-class fares.<sup>2</sup>

In opposing the amalgamation scheme of the L. and N.W. and the L. and Y., as they showed that they were determined to do, the Midland Company had a plausible case for appealing against monopoly; there was not much fear that the argument would recoil on their own heads. Elsewhere this monopoly argument was not very conspicuous, except, perhaps, in the pages of the *Economist*,<sup>3</sup> but when it was raised by traders or journalists, then generally State purchase was advocated. This was so, for example, in the case

<sup>1</sup> Possibly an exception must be made of the earliest years of the Midland Company. Morrison wrote of the monopolist policy of the Company in 1848, and said that they had raised fares, while other companies were lowering them ("Influence of English Railway Legislation," p. 39). But Morrison was biased against the Midland because of its chairman, Hudson.

<sup>2</sup> Stretton, chap. xxiii., "A Master Stroke"; Grinling, p. 277, shows that the changes made by the Midland were not entirely novel. Competition between the Midland, Great Northern, and North Western had already put an end to the special "express" fares. Mr. Stretton's history is the work of an admirer of the company; not necessarily biased, but naturally favourable. It is well to see the company from another point of view, as one does in Mr. Grinling's book, which gives a forcible impression of Midland restlessness, and of the tension and apprehension caused by Midland enterprise and activity.

<sup>3</sup> See issues of February 10, 1872 (pp. 162-63); April 13, 1872 (p. 450); August 17, 1872 (pp. 1013-15).

of the Liverpool Chamber of Commerce,<sup>1</sup> who were much agitated over the North Western amalgamation. They were reproved for their hostility to the scheme, not only by Mr. Moon, the chairman of the L. and N.W.R., who pointed to the millions his company had spent on Liverpool,<sup>2</sup> but also by the Manchester Chamber of Commerce. Manchester might not have favoured the amalgamation scheme on its own merits, but the fact that Liverpool opposed it was probably sufficient to throw the neighbouring city on to the other side. Mr. Mason, the president of the Manchester Chamber, remarked that Liverpool was not alone in possessing grievances, but that amalgamation would not make them worse; he was averse to the tendency towards State acquisition which he saw in Liverpool. Sir Edward Watkin addressed the meeting, and declaring himself an old Free-Trader, assured them that economic laws could not be disregarded, that amalgamation was an economic benefit, and (perhaps rather an uncertain point) that Manchester was constantly gaining from competition. The State, he said, meant party; State railways would be railways given over to party management. The Chamber, accordingly, expressed their disapproval of State purchase, and resolved that they had "no opinion on amalgamations, but thought it essential to preserve competition."<sup>3</sup> Some more serious contributions of opinion on State management were made at a meeting at the London

<sup>1</sup> See speech delivered by Mr. R. S. Graves, M.P., at the annual meeting of the Liverpool Chamber of Commerce, January 26, 1872, published (London, 1872) under title of "Railway Amalgamation." See also evidence of Mr. Charles Clark (Liverpool Chamber of Commerce); pp. 105-132 Report on Amalgamation, 1872; in particular Question 1,283 onwards, for his favourable views on state management.

<sup>2</sup> Herapath, February 24, 1872, L. and N.W.R. half-yearly meeting.

<sup>3</sup> *Ibid.*, May 18, 1872. Report of Meeting of Manchester Chamber of Commerce; also leading article praising the "stout spirit of Manchester."

Institution in April, 1872, when Mr. Thomas Adams read a paper on "Amalgamation and Public Interests."<sup>1</sup> The remarks made by the chairman, Mr. Richard Potter, were very interesting. He was a former chairman of the Great Western Railway, and at this time was president of the Grand Trunk of Canada. He sketched, from his own recollections, the early history of English railways, and in dealing with the present day, suggested that any reduction of maximum rates would be unwise, since we were probably on the eve of a large permanent advance in the rate of wage and the cost of materials; "probably, also, of a considerable decline in the value of gold, which would be followed by a rise in the money price of commodities." This was an unfortunate prophecy; prices had been rising, but they fell steadily from 1872. He further warned his audience of the danger of comparing the Government purchase of the telegraphs with the enormous operation of railway purchase. The Government, he said, had paid about seven million sterling for telegraphs that were worth about three million.

Mr. Price, the Midland chairman, also touched on the question, and said he did not think the State could educate successful railway managers. He would rather, he said, be called on "to find six Archbishops, six Lord Chancellors, and six Prime Ministers, than one good Railway Manager."

The opinions in favour of State purchase or State management have been carefully collected by Gustav Cohn,<sup>2</sup> under two heads: first, evidence given by advocates of State purchase before the Joint Committee of 1872; secondly, articles in periodicals and pamphlets,

<sup>1</sup> The meeting is fully reported in Herapath, June 15 and June 29, 1872, under the title "Political Economy of Railways."

<sup>2</sup> Cohn, vol. i., pp. 345-353. Cohn does not mention an article in the *Contemporary Review* (vol. xxii., July, 1873), "the Railways and the State," by Arthur Arnold, which in my opinion is a more reasoned argument in favour of State purchase than any of the magazine articles to which Cohn refers.

and discussions in literary societies. The Report of the Joint Committee shows that the evidence to which Cohn refers had little influence on them. Amongst the articles that he quotes are some in the *Quarterly* and *Edinburgh Reviews*, which take a biased and limited view of the question ; short extracts from them may be telling, but they carry little conviction when examined in their entirety. Cohn mentions them at some length, because, as he explains, he considers that they are important signs of the trend of public opinion, but the absence in the forty years since 1872 of any strong movement in favour of State railways in England appears to show that Cohn was misled, and overrated the importance of the evidence and of the journalistic opinions.

The Midland Company were confident of success, as we have said.<sup>1</sup> The general opinion in the later part of the year 1872 seems to have been to the same effect, though it was thought that the more competitive schemes were doomed. Herapath commented on "the lame and impotent conclusion of the great amalgamation campaign heralded with such a flourish of trumpets in the autumn of 1871." "None of these great fusions," he remarked, "had been realized ; the sole result of the moribund Session was a huge Blue Book upon the whole question of amalgamation and management." But he considered the Midland Bill an exception ; he had no doubt that union with the Glasgow and South Western would come ; these companies "can afford to bide their time."<sup>2</sup> As a matter of fact,

<sup>1</sup> Mr. Haughton, in the pamphlet referred to above, said that their amalgamation "may be taken as already accomplished." See also Herapath, September 28, 1872, Report of Half-Yearly Meeting of Glasgow and South Western Company ; and August 20, 1872, Report of Midland Half-Yearly Meeting, when Mr. Price said that the Report of the Joint Committee on Amalgamation interposed "no difficulty to the renewal of the application."

<sup>2</sup> Herapath, August 3, 1872. Article on Glasgow and South Western Railway.

the Midland Bill failed<sup>1</sup> as readily as did the North Western one, and the only important scheme of 1872 that ultimately achieved any measure of success was the so-called West of England Traffic Arrangements Bill. This was a Bill to "confirm arrangements between the Great Western, Bristol and Exeter, South Devon, London and South Western, and other railway companies with regard to the working of certain lines," etc.<sup>2</sup> Mr. Grierson, the well-known General Manager of the G.W.R., explained the Bill to the Joint Committee of 1872 ;<sup>3</sup> it was not a Bill for amalgamation, but for traffic arrangements between the four companies, and was especially concerned with through booking between Exeter, Barnstaple, and Plymouth. There were many local petitions against the Bill, on the ground that it would restrict the field of competition, and the Midland Railway also opposed it strongly, on the ground that the arrangements would deprive the company of a large portion of the traffic to and from the district south and west of Bristol. Mr. Grierson said there was no justification for this opposition ; he considered it arose from misapprehension as to the scope of the Bill ; but when asked whether he would prefer an amalgamation, he admitted that "the South Western system and the Great Western were so intimately connected that the public would derive an advantage from it."<sup>4</sup> He was advised that the arrangement between the four companies needed Parliament's sanction, though he admitted that many of the objects of the Bill could be carried out without an Act.

It was there that these companies had the advantage over the Midland and the North Western. Though their Bill was classed with the Amalgamation Bills of the

<sup>1</sup> See Williams, p. 285.

<sup>2</sup> See Appendix Y, Report on Amalgamation, 1872, and index of evidence—"West of England Traffic Arrangements Bill."

<sup>3</sup> Report on Amalgamation, 1872. Evidence, Question 654 onwards.

<sup>4</sup> Report on Amalgamation 1872 ; Evidence, Question 682.

latter companies, was suspended in 1872 with the Amalgamation Bills, and rejected with them in 1873, the traffic arrangements were largely put into effect. Sir Daniel Gooch, M.P., the chairman of the G.W.R., stated<sup>1</sup> in August, 1872, that though the four companies' Bill had been suspended and withdrawn, the Great Western directors would act upon it, as was their duty, until Parliamentary sanction could be obtained for it. And it happened in the end that some partial amalgamation developed out of this arrangement; in fact, Mr. Allport's argument, on behalf of the Midland, that the four companies' Bill was to all intents and purposes an Amalgamation Bill,<sup>2</sup> was to some extent a correct anticipation. For in 1876 the G.W.R. absorbed the Bristol and Exeter Company, and, two years later, the South Devon Company; while the Midland also made an advance in the west, by securing in 1876, jointly with the London and South Western Railway, a lease of the Somerset and Dorset Railway.<sup>3</sup>

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<sup>1</sup> G.W.R. Half-Yearly Meeting, Herapath, August 31, 1872.

<sup>2</sup> Report on Amalgamation, 1872; Allport's Evidence, Question 4,260.

<sup>3</sup> These fusions are described in detail below, Chap. XI.

## CHAPTER X

1872-73 (*continued*)

### PART II.—THE INQUIRY OF 1872

Not having established a definite Railway policy, Parliament was taken by surprise in 1872, and had to fall back on the expedient of an inquiry into amalgamation. On February 18, Colonel Wilson Patten asked the President of the Board of Trade, Mr. Chichester Fortescue, whether he intended to propose any special method of considering the Railway Amalgamation Bills.<sup>1</sup> Mr. Chichester Fortescue agreed that the Bills could not be left to ordinary Private Bill Committees, but he could not, at that moment, state how they would be dealt with. He spoke of the public interests involved, as did Lord Airlie in the House of Lords next day, when it was announced by Lord Halifax that the Government proposed a Joint Committee. Several speakers favoured this proposal, amongst them Lord Salisbury, who remarked that Parliament had never decided between competition and monopoly, but had floated between the two. Lord Redesdale differed from other speakers, and thought that a committee would be useless and unnecessary. Parliament, he said, had inquired again and again; what was needed was an efficient Board of Control.

On February 23, Mr. Chichester Fortescue moved for a Select Committee to join with the Committee of the Lords to inquire into the Amalgamation of Railways, with special reference to the present Bills. Mr.

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<sup>1</sup> Hansard, vol. 209.

Price, the Midland chairman, said that the railway companies would favour this course, and the Prime Minister, Mr. Gladstone, assured the House that the Government would enter the inquiry with no bias. The two Houses nominated their representatives on February 26; the Joint Select Committee met on March 1, and called Mr. Chichester Fortescue to the chair, and on March 7 they commenced their inquiry by examining Mr. Cawkwell, the general manager of the L. and N.W.R. There were six members appointed to the Committee by each House. The representatives of the Upper House were Lord Salisbury; Lord Redesdale, who had taken possession of railway procedure from the time he became chairman of Committees in 1851; Lord Belper, who, as Mr. Strutt, had been Chief Commissioner of Railways in 1846 and 1847; Lord Derby,<sup>1</sup> who had been Foreign Secretary in his father's Government which Gladstone had replaced in 1868, and who again became Foreign Secretary when Disraeli replaced Gladstone in 1874; Lord Cowper,<sup>2</sup> an important member of Gladstone's Government, but not in the Cabinet; and the President of the Council, Lord Ripon, who was the distinguished son of "Goody Goderich," and had recently shown his ability as chairman of the joint English and American Committee on the "Alabama" question. He did not, however, preside over this railway inquiry, as the Commons had appointed as one of their representatives, Mr. Chichester Fortescue, President of the Board of Trade, since Mr. Bright's resignation of that office in 1870. Mr. Chichester Fortescue held many offices, and assisted Gladstone with his Irish Bills; as Lord Carlingford he was Privy Seal in 1881, and President of the Council 1883-85. The other members appointed by the Commons were Mr. Childers, who

<sup>1</sup> 15th Earl, 1826-1893.

<sup>2</sup> 7th Earl, 1834-1905. Presided over the Manchester Ship Canal Commission, 1885.

had already made a great reputation as First Lord of the Admiralty from 1868 to 1871; Mr. Dodson,<sup>1</sup> Chairman of Committees in the Commons from 1865 to 1882, and three Conservatives, Mr. Ward Hunt, Chancellor of the Exchequer, 1868, Sir Stephen Cave, Paymaster-General under Disraeli, and Mr. Cross,<sup>2</sup> the one survivor of the Joint Committee, who had held the office of Home Secretary, and was considered a model of business administration in the House.<sup>3</sup> The Committee was, therefore, an exceptionally strong one. Eight of the twelve members were in the Cabinet at some period of their career; two others, Lord Cowper and Sir Stephen Cave, were Ministers, though not in the Cabinet, and the remaining two, Lord Redesdale and Lord Belper, were specially qualified in railway matters. Two of the members were connected with railways: Lord Salisbury, as Lord Cranbourne, M.P., became chairman of the G.E.R. in 1867, and held that office until 1872;<sup>4</sup> some years later Mr. Cross became a director of the M.S. and L. Company, and he is still on the board of that company's descendant, the G.C.R. The Committee held twenty-three sessions for the hearing of evidence, and presented a unanimous Report on August 2, 1872.

The Report covers fifty pages. It begins with a valuable summary of railway history. It then examines the question of competition, and the existing forms of competition. State purchase is then disposed of in a few lines, and the practical question of the opportunity for restriction afforded by amalgamations leads on to a discussion of equal mileage rates, limitation of

<sup>1</sup> 1st Baron Monk Bretton, died 1897. President of Local Government Board with a seat in the Cabinet, 1880.

<sup>2</sup> 1st Viscount Cross, 1886 (born 1823). Lord Cross died January 8, 1914.

<sup>3</sup> Lord Randolph Churchill spoke of him and Mr. Smith as Marshall and Snelgrove.

<sup>4</sup> He was also a director of the Tilbury and Southend, and of the Tendring Hundred Railway; he gave up these also in 1872.

dividends and other suggested reforms, and to the actual recommendations the Committee felt justified in making. These and the general conclusions of the Committee can hardly be summarized, but we may state them in somewhat abbreviated form.<sup>1</sup>

Past amalgamations have not brought with them the evils which were anticipated. But combination between railway companies is increasing, and competition between them cannot be maintained by legislation.

Are the interests of the public sufficiently protected ? The Committee assume a negative answer to be given to this question, and point out that the introduction of Amalgamation Bills gives opportunities for regulating the railways in the public interest. But they find it impossible to distinguish between the special amalgamation schemes of 1872, and other Railway Bills that may be put forward from time to time. They therefore recommend general legislation, but "in the absence of such legislation" (that is to say, presumably, if Parliament declines to legislate) the measures suggested should be imposed as far as possible on each amalgamating company.

Remedial measures are then discussed. The Committee had already put aside the idea of subjecting amalgamating companies, whether constructed before or after 1844, to the conditions of the State Purchase Act of 1844 ; "the terms of that Act do not appear to be suited to the present condition of railway property." They dismissed as inexpedient or undesirable the proposals for equal mileage rates, revision of rates and fares, fixing of maximum terminals, limitations of dividends and general running powers, though they allowed that these powers might be granted in certain cases. Each of these proposals had been discussed at length in earlier parts of the Report.

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<sup>1</sup> They occupy the last three and a half pages of the Report.

The definite recommendations made by the Committee remain, and may he put under three heads:

1. Competition.

(a) "Effectual competition by sea exists, and ought to be guarded by preventing railway companies from obtaining control over public harbours."<sup>1</sup> Parliament did not act upon this recommendation.<sup>2</sup> A Standing Order, dating from 1847, had forbidden railway companies from acquiring docks, piers, harbours, hotels, and other objects, distinct from the undertaking of a railway company, unless the Committee on the Private Bill concerned thought that this restriction ought not to be enforced; in 1872 canals were added to the list of forbidden acquisitions. But in practice the Standing Order has never hindered the railways from acquiring these undertakings. At the very start in 1847 "twenty-four Bills were passed containing powers for objects distinct from the undertaking of a railway company." These all concerned waterways, docks, wharves, and ferries. Between 1847 and 1909 some 300 similar Acts were passed, and 170 of them were subsequent to 1872.<sup>3</sup>

(b) "Competition by river and canal exists to a partial and limited extent only." Various recommendations for preserving such competition were made. We have dealt with them in an earlier chapter, and shown that Parliament took no steps to carry them out.<sup>3</sup>

2. A permanent and special Committee for Amalgamation Bills.<sup>4</sup> "The present and future Amalgam-

<sup>1</sup> Departmental Committee, 1911; Evidence, Questions 12 and 93.

<sup>2</sup> *Ibid.*, Evidence of Mr. A. Beasley, Questions 18,535-36. The figures above are taken from two most valuable papers handed in by Mr. Beasley: Appendix XXIX., "List of Acts conferring powers on Railway Companies in relation to Canals, Docks," etc., and Appendix XXX., "List of Docks, etc., owned, etc., by Railway Companies in the United Kingdom." See also an interesting series of articles, "Railway Companies as Port, Dock, and Ship Owners," *Railway News*, March, 1909-1911.

<sup>3</sup> Chap. iv., p. 97.

<sup>4</sup> It is perhaps worth noticing that a specially-constituted Committee

ation Bills, and all Bills involving a transfer of rights in public harbours, or a transfer of the ownership or control of canals or navigations to railway companies, should be referred to a permanent and specially-selected Joint Committee." This Committee would impose the conditions recommended in the Report, would consider what special conditions each amalgamation or transfer required for the protection of the public, or of other companies, and would take care that no rules concerning *locus standi* debarred any persons from appearing before the Committee if they had a good reason for wishing to appear. Further, the Joint Committee would consider the granting of running powers.

This recommendation is discussed below.<sup>1</sup> Nothing came of it except the rejection in 1873 of the Amalgamation Bills revived from the previous year.

3. A Railway and Canal Commission. Under this title, "a special body should be constituted ; it should consist of not less than three members ; they should be persons of high standing : one should be an eminent lawyer ; one should be thoroughly acquainted with . . . railway management." The main duties of this Commission were to be :

(a) To administer the Railway and Canal Traffic Act ; in particular to secure through rates by canal and by rail, and fair and equal charges, and to facilitate through traffic.

(b) To compel companies to exhibit their books of charges, so that the public might know all details. The Report recommended a new and uniform classification of rates, and proposed that the Commissioners should sanction any subsequent alterations in it.

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for Amalgamation Bills had been suggested in 1844 by Mr. Gisborne, a member of Gladstone's Committee, but the Committee negatived the suggestion by seven votes to four (*Proceedings of the Committee, February 28, 1844*, p. xxi).

<sup>1</sup> P. 277 ; also p. 243 above.

(c) To replace any arbitrators and umpires provided for in existing Acts, thus forming a general Court of Arbitration for railways and canals.

Several small reforms were suggested in connection with the carriage of workmen, of troops, and of mails, which would probably entail the settlement of differences by this new Court, and a more important recommendation involved the arbitration of the Commissioners between railway companies and local authorities. If existing companies refused to make branch railways, local authorities might help the railway companies by a guarantee, or might themselves undertake the construction of the branches.<sup>1</sup> The Commissioners would settle any differences that might arise.

In concluding, the Report stated that these recommendations, if adopted by Parliament, would not prevent the growth of railway monopoly, or secure the public any share, by reduction of rates and fares, in the increased profits railway companies might make. But the Committee believed that their effect would be to preserve sea competition, and give some practical support to canal competition, to let the public know what and why they were charged, and to give them a remedy against unfair charges, and, finally, "to enforce the harmonious working and development of the railway and canal systems."

These recommendations were not particularly original, and there was nothing revolutionary about them; one or another of them had been made from time to time by previous Committees, and the most important recommendation, the establishment of a Commission, was only a development of the principles laid down by Cardwell's Committee, and partially carried out by his

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<sup>1</sup> This same recommendation was made in an article "Industrial Monopolies," in the *Quarterly Review*, 1871, No. 262 (p. 477). Cohn (vol. i., p. 320, note 2) refers to this article as Farrer's. The article points out that Parliament should not press hardly on the railways, since "by its gross mismanagement of Private Bill legislation it has contributed to the losses of the companies."

Traffic Act. But there was a comprehensiveness and logical force about the Report of 1872 which commended it to all impartial critics. Each recommendation was the result of sound argument and patient examination. The Report should have carried weight as the unanimous opinion of a very able Committee, and by reason of its moderate and level-headed reasoning, and of the mass of valuable evidence supporting it.

To attempt a survey of all the evidence is hardly feasible ; students of railway history will find a more satisfactory guide in the very comprehensive index to the Report. But, putting aside the large portion of evidence on technical and local questions, one may offer some comments on the remainder that dealt with general problems of railway economics. Of the official evidence on questions such as the duties of the Board of Trade and the control they exercised, Parliamentary procedure, the establishment of a Commission, the advantages and disadvantages of State management, that given by Mr. Farrer and Captain Tyler is of chief importance. Thomas Henry Farrer,<sup>1</sup> afterwards Lord Farrer, was Permanent Secretary of the Board of Trade from 1865 to 1886, and exercised a commanding influence there. He was closely concerned with the Inquiry of 1872, and, as Cohn surmises, he drew up the draft Report for the Joint Committee.<sup>2</sup>

He took a very resigned view of things, having discovered how little influence his Department had on the course of railway affairs.<sup>3</sup> He brought out strongly the indifference of Parliament to the Reports of his Board, and outlined the form of a special tribunal to control railways. Like all other witnesses, he gave his

<sup>1</sup> Dictionary of National Biography, Supplement : "Farrer 1st Baron (1819-1899)."

<sup>2</sup> Cohn, vol. i., p. 320, note 2, pp. 138 and 346, "Der vermutliche Verfasser des Entwurfs." There is nothing in the minutes of proceedings to show who drafted the Report, and no mention is made of a Secretary to the Committee.

<sup>3</sup> See Cohn, vol. ii., p. 24 onwards.

views on competition. He did not believe in the continuance of competition between railways, but he held that so far from facilities being curtailed, they were more extensive in monopolized than in competitive districts. He contemplated the increase of amalgamations, and showed that the problem of an amalgamation of all the railways must ultimately be faced. Hitherto amalgamation and monopoly had not tended "to the inconvenience or prejudice of the public." Holding that opinion, he looked upon "the ultimate amalgamation and monopoly of these great companies rather as a political danger than as a commercial danger."<sup>1</sup>

On the other hand, Captain H. W. Tyler, R.E.—inspecting officer of the Board of Trade for nineteen years—was a strong advocate of State management. He agreed that amalgamation had established large systems which were better worked than small ones, but he did not consider the large systems so amenable to public opinion as the small ones, and it was because he could not solve the question of controlling large systems that he advocated State purchase. His view of the amalgamation question might be summed up thus: "Parliamentary interference, the insertion of clauses empowering revision of rates when companies came to Parliament for amalgamation, could not logically or usefully stop at any definite point. If rates were controlled, why should not Parliament go on in the interests of the public to regulate time-tables, etc.? But all such interference was incompatible with the business freedom of Joint Stock companies, and the public would lose more by it than they gained." His opinions deserve careful consideration. As a director of the Grand Trunk of Canada,<sup>2</sup> he had a personal

<sup>1</sup> Question 7,734.

<sup>2</sup> See Bradshaw's "Railway Manual" for 1868; Grand Trunk of Canada; President, Sir Edward Watkin; one of the Directors in London, "Captain Tyler, Board of Trade, Whitehall." After 1871 this address is replaced by one at Colchester, but it is clear that until then he was combining his Board of Trade work with the Canadian

interest in railways, but in England he was an official of the Board of Trade who had striven to secure the safety of the public, and who had found very serious difficulty in inducing these large and powerful companies to adopt improved systems of working. His experience had shown him that there were many faults in their organization, that as they grew larger and stronger in their territorial power, their *vis inertiae* increased, and they became "more impervious to action from within or from without."<sup>1</sup>

It was Captain Tyler who said,<sup>2</sup> in speaking of the tendency towards consolidation, that the question would arise "whether the State shall manage the railways, or whether the railways shall manage the State." But in spite of the authority with which he spoke,<sup>3</sup> the Committee showed that they were not convinced of the urgency of considering State management. "It does not appear to us that any present necessity exists for entering upon the full and prolonged inquiry which so great and difficult a question would demand."<sup>4</sup>

Another witness, whose evidence is of general interest, was Mr. P. W. Dawson, the secretary of the Railway Clearing House, who explained the working

directorship. (See also Report of Joint Committee ; Evidence, Questions 6,946-50.) He was subsequently Chairman of the Grand Trunk.

<sup>1</sup> Report on Amalgamation, 1872, Appendix N, p. 831 ; Captain Tyler's Report to the Board of Trade, in which his views are stated more comprehensively than in his evidence before the Committee. This Report was considered important enough to be reproduced almost in full in the *Times* (November 30, 1872, p. 6). Tyler is there complimented upon his lucid style.

<sup>2</sup> *Ibid.* ; Evidence, Question 7,020.

<sup>3</sup> It is possible that his strong and somewhat dictatorial tone acted unfavourably ; see, for example, his advice to railway directors and officers, p. 278 of Report (Appendix N).

<sup>4</sup> Report, p. xxxi. It is worth noticing that the Draft Report contained a rather different opinion. Preceding the words above were statements to the effect that combination might ultimately make it expedient on political, if not on commercial grounds (Farrer's point again), to alter the relations between the railways and the State, and that the only alteration possible seemed to be Government acquisition. (See Conclusions 5, 6, 7, Draft Report, p. xcvi). These statements were omitted by the Committee from their Report.

of his organization, and handed in a valuable paper,<sup>1</sup> which gave details of the Clearing House system, its regulations, goods classification, and legal position. The chief railway evidence was well given by three very able general managers, Allport, Cawkwell, and Grierson, and by two railway chairmen, Mr. Price, and Sir Edward Watkin. Each of these witnesses gave his opinions on questions of competition, running powers, —and amalgamation, in general and from the particular point of view of his own company.<sup>2</sup>

Much of the evidence is weakened by the partiality of the speakers. More valuable opinions would have been obtained from railway experts had they been talking on railway policy generally before a Royal Commission than when they were being cross-examined primarily with reference to the schemes of their own companies. No doubt the Committee were able to make allowances for this. For instance, they reported very favourably of the North Eastern Railway, uninfluenced by Allport's biased statement that the creation of this railway system had been disadvantageous to the public.<sup>3</sup> Then, again, Allport and Grierson were no doubt thinking of the special problems of their own companies when they put forward their different views on competition. Allport favoured the establishment of "four or five large systems, each

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<sup>1</sup> Appendix O.

<sup>2</sup> The evidence of Mr. Frederick Broughton may also be worthy of special mention. As manager of the Mid-Wales Railway, he had some important views on amalgamation, through rates, and the difficulties of a small company seeking to make alliances with powerful large companies. He pointed out that the amalgamation of the small Welsh companies into one large independent company was difficult, because outside English companies controlled the shares (Question 3,304).

<sup>3</sup> Evidence, Question 389. The evidence of Mr. Thompson, chairman of the N.E.R., is interesting. He spoke of the "virulent competition" before the railway was established with its complete territory, and showed that the N.E.R., without competition, had beaten the low rates on the L. and N.W.R., which Watkin had quoted as due to competition (Question 5,170).

one in competition with important adjoining districts"—a plan similar to that recommended by Mr. Haughton, and to Sir Edward Watkin's plan of establishing railway districts or territories. Grierson, on the other hand, did not object to the intermediate competition, which was so disliked by Allport, but he wanted to check competition (by pooling arrangements) at the extreme points of each railway system.<sup>1</sup>

It would be unfair to criticize Allport's evidence on general grounds. He was speaking for an enterprising company that lived by its brains and to some extent on the traffic of rivals. Moreover, he had spoken for that company on a different brief in 1853, when defending the proposed alliance of the Midland with the London and North Western. Then he had said that the two companies formed a continuous line.<sup>2</sup> Now in 1872, opposing the London and North Western, he said his own company, the Midland, should have the Lancashire and Yorkshire Railway; the two "would be continuous lines."<sup>3</sup> But he also justified an amalgamation of the Midland and the Manchester, Sheffield, and Lincolnshire; these also were "almost essentially continuous lines."<sup>4</sup> This evidence illustrates the changeableness of railway affairs. When in 1853 Allport had been supporting the proposed amalgamation of the L. and N.W.R. and the Midland, Mr. Denison, representing the interloping Great Northern Railway, had warned Cardwell's Committee that if the amalgamation were sanctioned general amalgamation must follow.<sup>5</sup> Now in 1872 Allport's railway, the innovating Midland,

<sup>1</sup> See Allport's evidence, Question 389, where he shows clearly that he favours the throughout competition of the Midland route against the L. and N.W. route; and Grierson's evidence, Question 677.

<sup>2</sup> Report on Railways and Canals, 1852-53; Evidence, Question 4,225.

<sup>3</sup> Report on Amalgamation, 1872 (Question 442). See also p. lxxx (Draft Report), where the Midland policy is criticized.

<sup>4</sup> Question 622.

<sup>5</sup> Report on Railways and Canals, 1852-53; Evidence, Questions 2,043-44.

might be considered as the interloper, and Allport, giving evidence against the proposed amalgamation of the L. and N.W.R. and the L. and Y., sought almost in Mr. Denison's words to impress the Committee with the danger of such an amalgamation: "It would practically be an amalgamation of all the railways in the kingdom ; you could not stop short of that, . . . amalgamating the whole of the railways into one monopoly."<sup>1</sup> Other witnesses might be criticized in the same way ; they cannot be blamed ; rather one must regret that the judgment of a great question was to some extent obscured by the special pleading of the experts, who were necessarily obliged to consider their own interests before those of general railway policy. Cawkwell of the North Western, for instance, had to attempt to show that the public were better served by amalgamated companies than by companies working together under agreements. His own company and the L. and Y. were intimately connected by working arrangements, but he pointed out that no arrangements between them for division of traffic could prevent each company from striving to carry traffic over its own line rather than over that of its partner. He did not say what percentage was allowed to the carrying company, but presumably it was high enough to vitiate the joint purse arrangement, and make it worth the while of each company to compete for traffic.

Following up this argument, he said that the two companies, though thus allied, were each running trains "at those times of the day when they think they will secure the largest amount of the traffic." But if the two companies were amalgamated, this would cease, and the trains would be arranged "in such a way that they would fill up the time of the day better." This was a very doubtful manner of arguing that amalgamation would benefit the public,

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<sup>1</sup> Report on Amalgamation, 1872 ; Evidence, Question 629.

and Lord Redesdale pertinently suggested that Cawkwell's words implied a curtailment of facilities.<sup>1</sup>

Mr. Childers' cross-examination of this witness was still more damaging. He adroitly led Cawkwell to state that competition had failed, and that competing lines with a view to the public advantage had been a delusion. Cawkwell instanced meetings<sup>2</sup> of iron-masters for the periodical fixing of prices, conferences of the North Staffordshire china-makers, protective associations of steam-packet companies, and of coal-owners: "Almost all traders make similar arrangements; it is unreasonable to say that railway companies should not in their own protection do the same thing." Further, he stated that the cost of competing lines had to be paid for out of the traders' profits, and so was practically left without an answer, when Mr. Childers disclosed his hand thus: "I do not quite understand the reason which you assigned to the Committee why we should approve of the present amalgamation, because I understood you to say it would leave so many competing lines—the Midland, the Sheffield, the North Eastern, and the Great Northern Lines—still in the district; if the principle of competition is so injurious, why do you justify what you ask us to do by telling us that it would leave competition?"<sup>3</sup>

After hearing much conflicting evidence of this sort on details the Committee very wisely refrained from discussing the several amalgamation schemes of 1872, and took a broad view of the amalgamation question, which did not condemn any particular scheme, but rather provided material for the judgment of all amalgamation problems. Their Report was, as we

<sup>1</sup> Evidence, Questions 35-39.

<sup>2</sup> Cawkwell's List of Trade Conferences may be compared with a similar but more extensive list given by Sir Edward Watkin; Select Committee on Railways (Rates and Fares), 1882, Question 3,892.

<sup>3</sup> Evidence, Questions 148-152.

have said, a sober, reassuring document. The broad historical view which it contained was well calculated to remove alarm, and to suggest that the railway question was not a threatening one. But we have also seen that the Report contained a clearly defined programme for legislative action, and it now remains for us to examine the outcome.

## CHAPTER X

1872-73 (*continued*)

### PART III.—THE ACT OF 1873

THE amalgamation schemes of 1872 had made a great stir. When they were suspended by Parliament, the general interest in railway matters died down, and little attention was paid either to the Report of the Inquiry of 1872 or to the legislation that followed in 1873.

The *Economist*, however, which had shown such marked hostility to a private railway monopoly, took a more favourable view after the Report had been published, and complimented Mr. Chichester Fortescue upon his clear logic.<sup>1</sup> Herapath had favoured the Committee from the start and praised its Report. In February, 1872, this journal had rebuked those who said that a Committee was a waste of time, and that each amalgamation should be judged on its own merits. Such people considered uniformity in legislation to be nonsense ; “just as we used to be told that uniformity in railway accounts was nonsense . . . while now, thanks to Government interference, that uniformity is established and found useful.”<sup>2</sup>

Mr. Price and Mr. Moon, the chairmen of the Midland and of the London and North Western Railway, were also pleased with the Report, but the latter was not over sanguine. The House of Commons, he said, were jealous of parting with their powers, and it was difficult to say what would happen when the

<sup>1</sup> August 17, 1872, pp. 1013-15.

<sup>2</sup> Herapath, March 2, 1872, p. 257.

Report ran the gauntlet of the House. It was clear to him that the Government would have to take over the railways unless the existing system of divided responsibility were ended : "At present the Board of Trade were fully as much responsible for all accidents as the Companies were."<sup>1</sup> This question of safety was frequently raised at the time, as it had been intermittently from 1852 onwards.<sup>2</sup> Gustav Cohn has dealt with it, and his treatment throws some interesting light on economic opinion, and the ministerial point of view that interference might weaken the responsibility of the railway companies.<sup>3</sup> By 1872, however, the non-interference idea was giving way. Mr. Chichester Fortescue did not favour it.<sup>4</sup> The Act of the previous year "To Amend the Law respecting the Inspection and Regulation of Railways"<sup>5</sup> had increased the powers of the Board of Trade, and the companies were complaining of interference in the style of Mr. Moon, whom we have quoted above.<sup>6</sup>

We may mention the somewhat similar opinion of

<sup>1</sup> Herapath, August 24, 1872, L. and N.W.R. Half-Yearly Meeting.

<sup>2</sup> See *Quarterly Review*, vol. iii. (1862), "Railway Control," pp. 1-40. Edwin Chadwick criticized the English railways in 1859 as inferior to the French not only in services and cheapness, but also in safety (*Journal of the Royal Statistical Society*, September, 1859, vol. xxii., pp. 381-420).

<sup>3</sup> Cohn, vol. i., chap. vi., p. 283 and following. See also p. 359, where Bentinck, the member who asked questions about safety, is described as famous by reason of his "Verunglückungs-Interpellationen!" For a good example of the arguments in favour of leaving the railways free from control in matters of working, see the Report of the Royal Commission on Railways, 1867, p. xxx.

<sup>4</sup> See the strong letter which he wrote to the railway companies on the insufficient provision for safe working, November 18, 1873 (Cohn, vol. i., Appendix). Captain Tyler at the Board of Trade was no doubt inspiring him. See H. Raynar Wilson, "The Safety of British Railways" (1909), pp. 7-15.

<sup>5</sup> 34 and 35 Vict., c. 78, August 14, 1871.

<sup>6</sup> An article on "Railways and the State" in the *Quarterly Review* (vol. 134, April, 1873, pp. 369-391), which is uncompromisingly hostile to the English railway system, argues that the system does not make for safety, because instead of someone being hung for an accident there is a mysterious controversy about points and signals between the Board of Trade and the railways.

another railway man on the Report of 1872. Sir Daniel Gooch, M.P., chairman of the Great Western, said the Report was very interesting, and contained some good points : " Unfortunately good Reports which had been presented previously had not been much acted upon by members in either House, and probably it would be the same now."<sup>1</sup>

This expectation proved correct. As in 1854, so now again in 1873, the legislative results of an important inquiry were small from the point of view of amalgamation, though, perhaps, they may be considered important for their ultimate effect on the decision of questions relating to preferences and facilities.

We refer to the Bill introduced by Chichester Fortescue<sup>2</sup> in February, 1873, and sanctioned after little serious opposition, and with but slight amendment,<sup>3</sup> as "An Act to make better provision for carrying into effect the Railway and Canal Traffic Act, 1854, and for other purposes connected therewith."<sup>4</sup> The "better provision" consisted chiefly in putting the execution of the Act of 1854 into the hands of a new tribunal—three Railway Commissioners. After fourteen years of somewhat restricted utility, this tribunal became the Railway and Canal Commission, which with considerably increased powers under the Acts of 1888 and 1894 has carried on the principle of 1854 to the present day.<sup>5</sup>

<sup>1</sup> Herapath, August 31, 1872, Report of G.W.R. Half-Yearly Meeting.

<sup>2</sup> See below, p. 272.

<sup>3</sup> Bills 1873, vol. iv. The original Bill (No. 34), introduced by Fortescue, Childers, and Arthur Peel, was little altered in Committee (Bill, No. 121); the only noticeable alteration in the Lords (Bill, No. 171) was the insertion, after Clause 4, of a Clause, compelling a Commissioner to dispose of any railway stocks or shares he might possess. For the progress of the Bill, see Hansard, Commons, March 31, April 3, 7, 28; Lords, May 6, 13, 19.

<sup>4</sup> 36 and 37 Vict., c. 48, July 21, 1873; cited as "Regulation of Railways Act, 1873."

<sup>5</sup> "Railway and Canal Traffic Act, 1888" (51 and 52 Vict., c. 25), and the amending "Railway and Canal Traffic Act, 1894" (57 and 58 Vict., c. 54).

The history of this tribunal is outside our proper sphere, and we shall only deal with it briefly in its connection with the affairs of 1872.<sup>1</sup> The result of the Report of that year was this Act for improving the procedure under a previous Act, the Traffic Act of 1854, which had also resulted from an inquiry into amalgamation.

Our chief object is to show that Parliament did not succeed either in controlling the general course of amalgamation, or in its more limited aim of enforcing the principles of the Traffic Act of 1854.

Taking the latter question first, those principles consisted in enjoining railway companies "to afford all reasonable facilities for the receiving, forwarding, and delivering of traffic, and to make no unfair distinctions between their customers."<sup>2</sup>

The Commission undoubtedly proved useful for this purpose, but it very soon became apparent that its powers were too limited. Reporting in 1877 the Commissioners spoke hopefully; so far the substitution of a special Court of Commissioners for the judges of the superior Courts had produced the desired effect of

<sup>1</sup> The Act of 1873 has been discussed at length by the various Committees on Rates since 1881. It was fully treated by Mr. Marwood in his evidence before the Departmental Committee, 1911. Mr. Marwood took the recommendations of the Committee of 1872 one by one, showing their results (see especially Questions 41, 60, 77, 86). Further, the Act of 1873 is exhaustively treated by Cohn, vol. iii., pp. 131-171; and the Annual Reports of the Railway Commissioners, from 1875 onwards, sum up admirably the decisions of the Commission, their success, handicaps, difficulties, etc.

<sup>2</sup> Third Annual Report of the Railway Commissioners, 1877 [c. 1699]. An interesting outside opinion on the Act of 1873, and the general position in England is furnished by the Report of M. Malezieux, "Les Chemins de Fer Anglais en 1873" (published by order of the Minister of Public Works, Paris, 1874). On p. 104 he notes that the dominant idea of the Act is "equality of treatment," a fundamental principle in France. His comparisons between England and France favour his own country. The Act itself is overcrowded with details, and not so well arranged as French laws (p. 103). Some of his views were strangely incorrect. Speaking of competition (p. 97), he said English companies were tired of it, and wanted the intervention of "La providence Parlementaire!"

bringing more frequent applications for the enforcement of the Act: "There have been as many applications under the Traffic Act, 1854, section 2, in the three years since September, 1873, as there were between 1854 and that date."

But the railway companies were only then beginning to resist the Act, and when they did, opinion changed considerably, as Professor Hadley has well shown,<sup>1</sup> as to the efficacy of the Act of 1873. Under the Act itself appeals could be made "on a question of law raised in a special case," and beyond that appeals could also be made by "motions for a prohibition where it was alleged that the Commissioners were exercising powers in excess of their jurisdiction."<sup>2</sup> These appeals and motions for prohibitions became almost a regular feature in the more important cases dealt with by the Commissioners from 1877 onwards, both in England and in Scotland.<sup>3</sup>

The Commissioners pointed out their difficulties and lack of powers, and recommended, amongst other things, that the Queen's Bench and other Courts should have the power to transfer railway cases to the Commission,<sup>4</sup> and that as individual complainants did not venture to come forward and the Board of Trade did not appear to take up their complaints, the Commissioners themselves should have power to require an officer of the Board to act.<sup>5</sup>

Another weak point, and one that might have been avoided in the first instance, was the temporary nature

<sup>1</sup> "Railroad Transportation," pp. 172-77.

<sup>2</sup> Sixth Annual Report of the Railway Commissioners, 1880 [c. 2,504].

<sup>3</sup> See Sixth Annual Report, p. 3, L. and N.W.R. appeal to Queen's Bench Division, and then to Court of Appeal and House of Lords, and appeals of Caledonian and other companies; Eighth Report, 1882 [c. 3,178], pp. 3 and 4; Fourth Report, 1878 [c. 1,962], pp. 5 and 6, for difficulties of Commissioners in enforcing their order *v.* L.C. and D.R. and S.E.R.

<sup>4</sup> Fifth Report, 1879 [c. 2,218].

<sup>5</sup> Fourth Report, 1878 [c. 1,962].

of the Commission. They were appointed for five years only,<sup>1</sup> and after that term had expired they were continued in office from year to year, until at last, in 1888, the whole constitution of the Commission was overhauled. The Rates Inquiry of 1882 reported that the Commission was to a great extent hindered by the temporary character with which it was invested,<sup>2</sup> and before then a large number of Chambers of Commerce had addressed Memorials to the Board of Trade in favour of making the Commission permanent, with extended powers over rates and classifications.<sup>3</sup> Indeed, at the very beginning in 1873, it had been argued in the House of Commons that the Commission would fail if it were set up experimentally.<sup>4</sup>

There was still another direction in which the Legislature may be criticized on the establishment of this tribunal. The salaries of the Commissioners were fixed at £3,000. It was pointed out in the House that this was a smaller salary than that of many railway managers, and was not sufficient to attract the great men required.<sup>5</sup> The Act stipulated<sup>6</sup> that two of the three Commissioners should be qualified respectively by legal knowledge and by railway experience ; Mr. Price, the late chairman of the Midland Railway, and Mr. Macnamara, Q.C., filled these posts satisfactorily, but the most distinguished member was the third Commissioner, "a Christian at large,"<sup>7</sup> whose qualifications were not fixed by the Act ; he was Sir Frederick

<sup>1</sup> 36 and 37 Vict., c. 48, Section 37.

<sup>2</sup> Report on Railways (Rates and Fares), 1882 (317), p. xiv.

<sup>3</sup> Appendix I., Report on Railways (Rates and Fares), 1881 (374).

<sup>4</sup> Hansard, vol. 214, February 27, 1873, speech of Mr. Miller. For the various abortive attempts before 1888 to establish a permanent Commission, see Lord Stanley's speech in 1887, on his own Bill of that year which also failed. He mentioned a Bill of Mr. Chamberlain's, one promoted by the railway companies, and one of Mr. Mundella's. Hansard, vol. 312, p. 125.

<sup>5</sup> *Ibid.*, speech of Mr. Pease and of Mr. Miller.

<sup>6</sup> Section 4.

<sup>7</sup> Hansard, March 31, 1873. Mr. Henley's speech, p. 368.

Peel, who devoted his career to the Commission and thoroughly mastered the details of legal and railway practice.<sup>1</sup> In his case, the salary was not an important consideration; he was not a business or professional man, but had been, before 1873, a most industrious but not very successful member of Parliament.<sup>2</sup> It was said, however, that the post of Commissioner was offered to two leading railway managers, who declined on the ground that £3,000 a year for five years would not recompense them for the loss of the positions they were holding.<sup>3</sup>

These points show that Parliament failed to establish a satisfactory tribunal in 1873. It would, however, be foolish to criticize the Legislature without examining the arguments used in Parliament. An examination of them will explain to some extent the reasons why so limited a tribunal was set up. Mr. Chichester Fortescue, introducing the Bill, admitted frankly that it was not possible to recommend any very drastic action,<sup>4</sup> but Parliament could "at least provide a specially qualified tribunal for considering each case as it arose, and for considering all applications for amalgamation. . . . so that they might all be dealt with upon some principles of uniformity." For this last purpose he secured the appointment of the Joint

<sup>1</sup> Lord Stanley spoke of his "fairness, impartiality, painstaking care," Hansard, vol. 312, p. 131. His ability as a Commissioner was not denied by railwaymen, but they credited him with a tendency to favour traders, or, at least, to be suspicious of the case for the railways.

<sup>2</sup> Nicknamed "The Muff" by *Punch*. He was a younger son of Sir Robert Peel.

<sup>3</sup> Mr. Oakley and Mr. Grierson, Cohn, vol. i., p. 361, and *Railway Service Gazette*, April 26, 1873, p. 9, where it is suggested that Allport or Eborall of the S.E.R., both of them general managers who were believed to be desirous of retiring, might be made Commissioner. Eborall died in December, 1873.

<sup>4</sup> Hansard, vol. 214, p. 229. Cohn (vol. i., pp. 356-57) says that in his speech Fortescue coloured the Report of 1872, so that its "critical-sceptical" element vanished and the outlook for the new legislation was made to appear very hopeful. The speech does not give me that impression.

Committee to which Amalgamation Bills were referred,<sup>1</sup> but, as we have shown, the Joint Committee never met again after 1873, and the permanent control and uniformity thus aimed at were never obtained.

He then stated the conclusion of his Committee of the previous year, that "the best thing they could recommend was an improved version of the Traffic Act of 1854." The principles of the Act had been most valuable, its practical success "most imperfect." He concluded very diffidently: the Bill did not profess to provide "a perfect remedy for such evils as accompanied the many great advantages which the railway system of Great Britain conferred upon the country;" the Committee "were not sanguine as to their power or the power of Parliament to provide a solution for all difficulties." But they hoped to secure to the public the full and free use of the railways. Cardwell's hopes in 1854 had been almost identical.

Cardwell was now, 1873, Secretary for War, and Gladstone, another former President of the Board of Trade who had played a great part in railway legislation, was Prime Minister. They did not address the House at all on Chichester Fortescue's Bill, but a third ex-President, Mr. Henley, a member of the opposition as he had been in 1854, expressed his views and condemned the Bill on the ground that "it gave power to act in spite of Acts of Parliament" and would shake people's faith in Parliament in regard to their treatment of property. He mistrusted the Commissioners and went so far as to suggest that a Commission might be a convenient way of depreciating railway property before the Government bought it.<sup>2</sup>

There was no very strong opposition to the Bill

<sup>1</sup> Hansard, February 21, p. 783.

<sup>2</sup> Hansard, vol. 215, p. 368. Statecraft of this nature is fully developed by Herapath in a very bigoted article, March 22, 1873, p. 364.

either inside Parliament or outside.<sup>1</sup> But what there was took the form indicated by Mr. Henley's words—suspicion of a new tribunal with extra Parliamentary powers. "What had the railways done that they should be treated in this arbitrary manner?" "Would the Commissioners lay down arbitrary rules over-riding the whole management of railways?"<sup>2</sup> "Should Parliament sanction a Bill which allowed Commissioners to treat as waste paper agreements between existing companies sanctioned by the House itself?"<sup>3</sup> A well-known railwayman, Mr. Denison, said: "The more able the Commissioners, the more despotic they would be; the effect of the scheme would be to establish a sort of Railway Star Chamber."<sup>4</sup>

These and similar expressions of mistrust were evoked by the very modest Bill of 1873. They enable us to appreciate the attitude of Parliament towards any diminution, however slight, of its own powers, and they show that a more comprehensive measure would have roused strenuous opposition.

More reasonable people took the opposite view and saw that the great objection to the Bill was its restricted scope; Mr. Bentinck regretted that a "feeble and inadequate tribunal" was to be set up.<sup>5</sup> Mr. Ward Hunt argued that the new tribunal would not venture to interfere where the interests of the public and the railways were opposed. He and Mr. Cave had been in a minority of two in the Joint Committee of 1872,<sup>6</sup> and but for the respect they had for the authoritative

<sup>1</sup> Cohn, vol. i., p. 357, refers to the temporary opposition of the L. and N.W.R.; to the conviction of the *Economist* that the Bill was insufficient, and that State purchase must come; and to the favourable comments of the *Times*, both on the Bill and on State action.

<sup>2</sup> Speech of Mr. J. Fielden, Hansard, vol. 215, p. 349.

<sup>3</sup> Speech of Mr. Pease, Hansard, vol. 214.

<sup>4</sup> Hansard, vol. 215, p. 367. See also Mr. Goldney's opposition to the Bill, p. 362; Mr. Newdegate's, p. 363.

<sup>5</sup> Hansard, February 27, 1873. See also speeches of Mr. Pease and Mr. Miller.

<sup>6</sup> Mr. Hunt and Mr. (afterwards Sir Stephen) Cave were the two

opinions of their companions in the Inquiry, they might have been inclined to move the rejection of this Bill. But in any case Mr. Hunt declared he was anxious to see the Bill put into effect, because it would prove the futility of all such experiments. "Perhaps this would be the last experiment, since daily the conviction was growing that the State must take over the railways." Mr. Hunt certainly overrated the tendency to favour State purchase. But he was right in foreseeing that the Act of 1873 would not prove satisfactory.

It remains to make some remarks on the other point which we wish to emphasize; Parliament did not succeed in controlling the general course of amalgamation. It must be fully allowed that the Report of 1872 disclosed a far less alarming condition of affairs in the railway world than did the Report of Cardwell's Committee twenty years earlier. There was therefore far less reason for drastic interference in 1873. Moreover, the Parliamentary experience of the Committee of 1872, and their knowledge of the attitude of the House to railway questions, probably induced them to present a Report which by its moderation would be acceptable to members.

But though the Report of 1872 was of a calm and reassuring nature, and though Chichester Fortescue, basing himself on its moderate recommendations, introduced only a very mild legislative measure (and carried it without trouble, where Cardwell's more heroic Bill had been cut to pieces), it remains true that the aims of Fortescue's Committee on the general question of amalgamation failed as completely as did those of Cardwell's Committee.

The Act of 1873 attempted to improve the machinery by which complaints against railways were

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advocates of a State railway system on the Inquiry of 1872 (see Cohn, vol. i., p. 359). The Report contains no minority statement on their part, though their disagreement with passages of the Chairman's Draft Report is shown on p. cii.

redressed. Indirectly, of course, that was a check on the arbitrary action which might follow amalgamations. It enforced the recommendations of 1872 on the canal question, giving the Commissioners a control over agreements between canals and railways, and putting on railway companies what has proved in some cases the unnecessary burden of maintaining their canals in good order.<sup>1</sup> It gave the Commissioners certain duties with respect to arbitrations and the sanctioning of working agreements which were of little importance. The Departmental Committee of 1911, reviewing the question considered that the approval of working agreements by the Commission was "an unnecessary formality."<sup>2</sup>

The larger question of sanctioning complete fusions was not touched by the Act, and though the general tenor of the Report of 1872 was that these might be left to Parliament, there is plenty of evidence that the Committee of that year favoured the establishment of some control over amalgamation policy. They contemplated not merely a Judicial body, but something more general, of an advisory character which would combine the functions of the Board of Trade, the Court of Common Pleas, and Private Bill Committees in Parliament.<sup>3</sup> "One thing is obvious," they said in their Report—viz., "that it is difficult to provide any fixed rules which will through the medium of self-

<sup>1</sup> Sections 16 and 17 "Regulation of Railways Act, 1873." See p. 98 above.

<sup>2</sup> For the failure of the arbitration powers see the Eighth Annual Report of the Railway Commissioners, 1882 [c. 3,178], p. 11. For working agreements see above, p. 211; also Departmental Committee, 1911, Report, pp. 14, 15, and 16; and evidence of W. H. Macnamara (Secretary and Registrar of Railway and Canal Commission since 1882). He showed that since 1873 the Commission had only approved twenty-three working agreements for England and Wales. His evidence brought out the disadvantages of procedure before the Commission, which resulted in companies going direct to Parliament for powers to make working agreements. See especially Questions 1,289-1,307, 1,332, 1,446.

<sup>3</sup> Report, p. xlvi.

interest or of the ordinary action of law, do what is necessary to protect the public. Consequently, almost every witness has suggested some tribunal . . . which shall do what self-interest or the law itself cannot do."<sup>1</sup> They recommend accordingly the establishment of a "Railway and Canal Commission," very much on the lines followed by the Act of 1873. But they clearly meant it to be permanent—"a standing tribunal"—and they suggested that the Commission should advise and assist Parliament in railway legislation. This was to be done in conjunction with the Joint Committee on Amalgamation and Transfer Bills which they had definitely proposed as a permanent body.<sup>2</sup> If the services of the Commissioners "were placed at the disposal of the Committee . . . to which Amalgamation Bills are referred, much trouble might be saved, and legislation might be rendered more harmonious and satisfactory."<sup>3</sup>

This might have proved useful, but, unfortunately, only a temporary Commission was established, and the Joint Committee with which it should have worked lasted but one Session.<sup>4</sup> One is tempted to ask "Could not something more thorough have been attempted?"

Writing before the Joint Committee of 1872 had assembled, Captain Tyler foresaw that in the amalgamation struggle the particular arguments of the great companies concerned would be "advocated by the most able and eminent counsel of the Parliamentary bar—while necessarily the interests of the general

<sup>1</sup> Report, p. xlvi. The French critic, Malezieux, to whose Report we have referred above (p. 269), was misled into thinking that the Act of 1873 would establish an advisory body. He expected that the Railway Commission would develop, and stand to Parliament as "un comité consultatif precieux, dont les avis seront d'autant plus efficaces qu'ils seront anonymes et irresponsables" (p. 107).

<sup>2</sup> Report, p. lii. See also Chichester Fortescue's speech moving for this Joint Committee, Hansard, February 21, 1873 (vol. 214, p. 783).

<sup>3</sup> Report, p. xlxi.

<sup>4</sup> See above, p. 243.

public, and what may be called imperial policy with regard to questions of amalgamation, will be unrepresented."<sup>1</sup> It is not altogether true that the Joint Committee of 1872 neglected "imperial policy." In their Report they examined the question of "Future Amalgamation and Districting" at some length.<sup>2</sup> Could railways be compelled in future "to follow certain fixed lines or principles, instead of leaving the matter as heretofore, to the chance medley of struggles between rival companies and the inconsistent decisions of successive Parliamentary Committees?" Such a policy, they agreed, if applied earlier, would have given the country a far less costly railway system, but they found great difficulties in the way of attempting it in their own time. They discussed the difficulties, the maintenance of a due balance of power between amalgamated companies, and of proper facilities between them ; the monopoly that must necessarily be given to companies if districts were authoritatively assigned to them. They expressed no absolute opposition to a district monopoly, but did not think it would be wise for the public to surrender "potential competition." And so on, concluding that "the attempt to make a new railway map to which existing and future railways should be compelled to conform their territories" was impossible.<sup>3</sup>

One cannot venture to criticize such a weighty opinion as that of the Joint Committee. It is best to accept their views without reservation, and put aside as unpractical the attractive idea of an "imperial policy"

<sup>1</sup> Captain Tyler's Report, p. 829 (Appendix N); Report on Amalgamation, 1872.

<sup>2</sup> P. xl.

<sup>3</sup> A somewhat remarkable Bill was put before Parliament in 1873 by Mr. Stapleton and Mr. Dickinson, "To provide for the Amalgamation of Railways" (Bills, 1873, IV., No. 227), which proposed to map out the United Kingdom and enable local authorities to compel railways to amalgamate. The Bill was read a first time on July 7, and withdrawn without debate two weeks later.

of railway amalgamation. One may, however, entertain a belief that even though the deliberate planning of a railway map were impossible, some general supervision over changes in the map might have been attempted, some permanent body made responsible, if only with advisory powers, for future progress. The Joint Committee dealt with that question to some extent when they recommended the maintenance of a Committee of Lords and Commons to watch Amalgamation Bills, and of a Railway Commission which would be at the disposal of that Committee. They were practical men with a wide experience of Parliamentary procedure, and of Parliament's attitude to the question of railway control. Their recommendations were no doubt limited to what they considered acceptable to Parliament. But Parliament did not continue the experiment of a Joint Committee for Amalgamation Bills, after the Committee had met in 1873, and had killed the amalgamation projects which had brought on the whole question.—“Temporary expedients for temporary emergencies.”—After 1873 the amalgamation question continued to shape its own course.

## CHAPTER XI

1874-1900 : THE STRUGGLE BETWEEN THE GREAT WESTERN AND THE SOUTH WESTERN — THE SHEFFIELD AND SOUTH EASTERN COMPANIES AND SIR EDWARD WATKIN — THE WORKING UNION OF THE S.E. AND C.R.

THE big consolidations of the period from 1874 to 1900 were those effected in the south-west and south-east of England.

Before describing them in detail, we may mention some important smaller fusions that belong to this period. Two of these were joint transactions, the joint lease of the Somerset and Dorset Railway to the Midland and the South Western in 1875,<sup>1</sup> and the absorption of the Eastern and Midlands Railway by the Midland jointly with the Great Northern in 1893.<sup>2</sup> We have noticed instances of joint purchase or lease in the forties,<sup>3</sup> but the practice became more common in the sixties (when three great companies combined to undertake the most prominent joint undertaking in England—the Cheshire lines<sup>4</sup>), and in subsequent years. It is to be accounted for partly by the increasing friendliness between the companies, which made them less inclined to fight and more ready to co-operate, and partly by the increasing density and inter-connection of the railway system as it occupied every corner of the land. In many cases two or more large com-

<sup>1</sup> Below, p. 286.

<sup>2</sup> The Eastern and Midlands Company was formed in 1882 by the fusion of three companies. Its mileage was 188 (Stretton, p. 227).

<sup>3</sup> Above, p. 29.

<sup>4</sup> Below, p. 291.

panies were equally interested in a small link line, and the small line could not in fairness be handed over to one alone of the great companies ; the only satisfactory solution was to transfer it jointly to the interested companies. A good example may be found in the East London Railway ; under a lease of 1884 the working of this little line of but six miles long was undertaken by a Joint Committee of six neighbouring companies.<sup>1</sup>

In Wales, many small companies have disappeared since the seventies, some of them absorbed by the Great Western and the North Western, others by the two principal Welsh companies, the Cambrian and the Taff Vale. The small but important consolidation of 1889 which formed the modern Taff Vale Company deserves special notice.<sup>2</sup> The company had been incorporated in 1836, but until 1889 it was but one of many small systems which were to some extent conflicting with each other, much as had been the case, on a larger scale, with the constituent parts of the North Eastern system before the amalgamation of 1854. The 124 miles of the Taff Vale system were formerly in the hands of fourteen separate companies. They now form a single organization of first-rate importance among the smaller English systems, with a strong territorial position, little troubled by railway competition, though to some extent in competition with docks.<sup>3</sup>

The consolidations in the west of England may now

<sup>1</sup> See W. A. Robertson, "Combination among Railway Companies," pp. 29, 30. A list of Joint Railways is regularly given in Sekon's "Railway Year-Book."

<sup>2</sup> By the Act of 1889, six small Welsh companies were vested in the Taff Vale Company (Bradshaw's Manual). Since then the Cowbridge and Aberthaw Company has been absorbed in 1895, and in 1902 the Aberdare was leased in perpetuity at 10 per cent.

<sup>3</sup> The story of the company and its interesting position as regards dock competition is fully and admirably set out in the evidence of Mr. A. Beasley. Departmental Committee on Railway Agreements and Amalgamations, 1911 (Question 18,319 onwards).

be dealt with in detail. The early extension of the Midland Company south-westward through Gloucester to Bristol had not been continued, and the struggle we have to describe was mainly one between the Great Western and the South Western. It is a most intricate piece of railway history, full of local interest, and throwing much light on the difficulties of railway promotion in this country, on the gauge question, and on the control wielded by Parliament and by the Board of Trade. It contains no outstanding features of dramatic interest, no great decisive amalgamations as in the case of the Midland or the North Western Companies, but the interest lies rather in many small moves, of which only the general outline can be indicated here.

The two companies had promoted rival schemes for the western extension of the railway system in 1844, and Dalhousie's Board reported in favour of the Great Western schemes.<sup>1</sup> Thereupon a most dutiful obedience to the Board was shown in an agreement between the two companies, the South Western promising not to oppose the Great Western schemes and not to project rival lines "unless and until the Board of Trade should consider a second line necessary to that district," and the Great Western in return transferring the lease of the proposed Southampton and Dorchester Railway to the South Western, and agreeing to its construction on the narrow gauge.<sup>2</sup> It was quite

<sup>1</sup> Accounts and Papers, 1845, XXXIX. Copies of Minutes of Railway Department (35). See also No. 83 of same volume giving the grounds of the Board's decision, and a very useful map of the projected railways.

<sup>2</sup> Select Committee, 1853, Third Report, Appendix II. Minute of Agreement—G.W.R., L. and S.W.R., and Provisional Committee of Southampton and Dorchester Railway, dated January 16, 1845. This date shows that the agreement had been made within a fortnight of Dalhousie's Report. It shows signs of hurried preparation; the points are put down in somewhat haphazard fashion, there are confusing references to "Mr. Castleman's company," and "the coast line," and its name is alternately given as "Dorchester" and "Dorsetshire."

Sir Sam Fay gives an interesting account of the fight for this line,

remarkable that rival companies should have settled their differences in this orderly spirit, and a great tribute to Dalhousie's Board. But the amicable arrangement went further and provided that the companies would "work their respective traffics fairly, with no partial change or reduction of fares . . . no effort to divert traffic and . . . every public convenience for the interchange of passengers." It was assumed that "passengers will elect their own route."

A note of discord was, however, sounded at the end of the Minute. In the first place, it was stated that the South Western Company would act *bona fide*—an addition which only appears necessary on the supposition that there was strong doubt as to that company's intentions. Secondly, the South Western directors stated that they acted "rather in deference to the authority of the Board of Trade, than in conformity with their own judgment, being of opinion that the Board's Report . . . might have been more beneficial to the public and the South Western Company."

Dalhousie's Board was discontinued in July, 1845, and two years later the agreement between the companies was broken. The South Western promoted Bills which, according to the Great Western Company's evidence, rendered valueless the lines (not yet completed) which had been granted to them by Dalhousie's Board. "There was no traffic that could pay for two lines, and even before the first could be finished a second was granted to destroy the objects for which the former Bills had been granted."<sup>1</sup> The Great

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"Castleman's Corkscrew" as it was called, and its lease to the South Western ("A Royal Road," pp. 51-52). The Southampton and Dorchester Company was incorporated, 1845 (8 and 9 Vict., c. 93). The lease in perpetuity to the South Western (for a rent of £20,000 and half the surplus profits) was sanctioned 1846, by 9 and 10 Vict., c. 131. Two years later the company was completely amalgamated with the South Western (11 and 12 Vict., c. 89).

<sup>1</sup> Cardwell's Committee, 1853. Saunders' evidence, Questions 1,461-62.

Western suspended their works, the more readily because of the financial difficulties of 1848 and 1849. The result was that in 1853 petitions were addressed to Cardwell's Committee on behalf of the inhabitants of Wiltshire, Somerset, Dorset, and Hampshire, and of separate towns in those counties.<sup>1</sup> In these, complaint was made that of the 189 miles which the Great Western had been authorized to construct, only 26 had been constructed, while the Bristol and Exeter had not built a single mile, though empowered to build 72 miles of railway. A petition from Salisbury stated that in the days before railways were introduced "the principal road for posting and other traffic between Dover, Brighton, Portsmouth . . . on one side, and Bath, Bristol, Gloucester, and South Wales on the other, had been through Salisbury," on the line of the unfinished Great Western extension. Salisbury was suffering greatly by the delay of the company in completing it.

All this was a most unfortunate result of "the carelessness which Parliament had shown in railway legislation,"<sup>2</sup> and it impressed Cardwell's Committee with the need of altering the procedure on Private Bills. Referring to the difficulties involved in the gauge question, the Committee said : "What Parliament had undertaken to settle by general legislation, Parliament, in compliance with the finding of Private Committees upon the special circumstances of each case, forthwith proceeded to unsettle ; and the result has been the construction of the broad in combination with the narrow gauge"—where the general settlement arranged by the Gauge Act contemplated only the one or the other—"and thus has arisen an uncertainty which causes, through a territory extending from Exeter to

<sup>1</sup> Cardwell's Committee, 1853. Question 1,453.

<sup>2</sup> Select Committee, 1853 ; Evidence, Question 1,469. The words quoted were used by Mr. Bright in examining Saunders on the Great Western and South Western schemes.

Birkenhead, all the evils of hostility, intrigue, depression of property, and total absence of any uniform and comprehensive adjustment of railway enterprise to the exigencies of public requirement.”<sup>1</sup> And with further reference to the unfortunate lack of sustained policy shown by Parliament in the case of the Great Western they made this statement : “ Your Committee consider that the principle, established at law, that an Act constitutes an engagement between the promoters and the public, is a principle deserving of more consideration than it has hitherto obtained as a guide to future legislation.” This principle does not convey an exclusive privilege to the promoters, “ but it does imply that, having been authorized to construct expensive works for public use, the resources from which their just remuneration was to spring shall not be taken away upon any other than clear grounds of public policy.”<sup>2</sup>

After the financial crisis of 1847 both the Great Western and the South Western delayed their extensions, and Parliament found it necessary to put pressure on the South Western to complete their authorized lines.<sup>3</sup> After many difficulties and further complicated rivalries with the Great Western, the Southern Company reached Exeter in 1860.<sup>4</sup> We may pass on, however, to the seventies, when larger and more decisive results were accomplished.

The Great Western Company was intimately connected with three smaller companies which it had

<sup>1</sup> Fifth Report, Select Committee, 1853, p. 13. See also Herbert Spencer’s essay, “ Railway Morals and Railway Policy ” (p. 185, note 2 above), in which an account of the Great Western and South Western schemes of 1844-45 is given, and the attitude of Parliament criticized.

<sup>2</sup> Select Committee, 1853, Fifth Report, p. 6.

<sup>3</sup> Fay, “ A Royal Road,” p. 85. The difficulties of the South Western and the acute dissensions between the Board and the shareholders are well described in Chap. XIII.

<sup>4</sup> Fay, p. 93. See also G. A. Sekon, “ History of Great Western Railway,” p. 168.

helped to promote ; the Bristol and Exeter (204 miles), the South Devon (122), and the Cornwall (66). For years they had been known as the "associated companies,"<sup>1</sup> and they were naturally all broad-gauge companies, or "exceptional gauge," as the South Western directors preferred to call it.<sup>2</sup> We have seen<sup>3</sup> that in 1872 the Great Western, with its associates, had attempted to get powers which would have replaced the competition with the South Western by friendly co-operation. That attempt failed, and the two companies soon renewed their aggressions. The South Western had gradually extended south-westwards, and in 1874 obtained powers to reach Plymouth, over the Great Western rails.<sup>4</sup> In the following year both companies were pushing their schemes actively, and after complicated negotiations, each made considerable gains. The G.W.R. attempted to unite to itself the Somerset and Dorset Railway (92 miles), but the South Western, together with the Midland, intervened and secured a joint lease, though the Great Western appealed against it to the Railway Commission<sup>5</sup> (on the ground that it violated an agreement of 1863 between themselves and the Midland), but without success. The arrangement was of considerable advantage to the leasing companies, giving the South Western access to Bristol, and the Midland a through route to the south coast at Bournemouth.<sup>6</sup>

The Great Western replied by amalgamating with the Bristol and Exeter, and by arranging to work the South Devon Company. The Cornwall Company had

<sup>1</sup> See speech of Mr. Michael Castle, deputy chairman of Bristol and Exeter Company, Herapath, February 12, 1876, p. 175. He spoke of the unparalleled harmony of the four companies.

<sup>2</sup> Fay, "A Royal Road," p. 98.

<sup>3</sup> Chap. X., p. 257 above.

<sup>4</sup> Fay, p. 110.

<sup>5</sup> The case is given pp. 22-24 Third Annual Report of Railway Commissioners [Cd. 1699], 1877, and the judgment of the Commissioners will appeal to the layman as an admirably clear exposition of a complicated legal issue.

<sup>6</sup> Fay, p. 119; Stretton, p. 228; Williams, pp. 326-329. The

been leased by the Great Western, the Bristol and Exeter, and the South Devon conjointly since 1861,<sup>1</sup> and was therefore secure. Its complete amalgamation with the Great Western did not take place until 1889.

By this move the Great Western consolidated its forces in the West of England, and was in a stronger position to meet its rival. The need for consolidation was made clear by the chairman of the Special Amalgamation Meeting held by the Bristol and Exeter Company in February, 1876. He explained that the "associated companies" worked together by means of a London Committee, composed of representatives from the four companies. This arrangement was cumbrous ; "there were too many cats to catch the mice." The South Western Company would be at Plymouth and Devonport within a few weeks. What chance would the Joint Boards have in competition with the single interest of the South Western ? He pointed also to the saving in Clearing-House expenses which amalgamation would bring.<sup>2</sup>

The South Devon Company was worked by the Great Western from January 31, 1876, but the amalgamation was not accomplished until 1878.<sup>3</sup> The shareholders complained of the delay.<sup>4</sup> No doubt they stood to gain by complete union. On the Stock Exchange amalgamation was considered a valuable asset on the side of the smaller companies ; the rumour of amalgamation in October, 1875, had the effect of raising Bristol and Exeter ordinary shares from about 112 to over 140, and South Devon from about 56 to the neighbourhood of 80.

Somerset and Dorset Company was an amalgamation (1862) of the Somerset Central and the Dorset Central. The lease dated from November 1, 1875 ; the Act sanctioning it was passed in 1876 (Herapath, February 12, 1876, Half Yearly Meeting of L. and S.W.R.).

<sup>1</sup> Mihill Slaughter, "Railway Intelligence" (No. XV., 1869, pp. 17-19, or earlier issues). The lease was under 24 and 25 Vict., c. 215.

<sup>2</sup> Herapath, February, 12, 1876, p. 175 ; Fay, p. 120.

<sup>3</sup> *Ibid.*, December 25, 1875, p. 1,335 ; March, 9, 1878, p. 270 ; August 3, 1878, p. 881.

<sup>4</sup> *Ibid.*, March 9, 1878, p. 270.

The only important consolidation that remains to be described is the working union of the South Eastern and Chatham Companies sanctioned in 1899. But we must first mention some projected alliances in the Midlands, in which, as in the case of the South Eastern Railway, the figure of Sir Edward Watkin predominates.

This remarkable man had been general manager of the Manchester, Sheffield and Lincolnshire Company as early as 1854;<sup>1</sup> he resigned because he disagreed with the directors about an agreement with the Midland, but two years later, in 1863, he returned as chairman of the company, and held that post until 1894. He had become president of the Grand Trunk in 1861, and at the request of the Duke of Newcastle, then Colonial Secretary, he had gone to Canada and taken an important part in the union of the five provinces, and the acquisition of the Hudson Bay territory.<sup>2</sup> Later he went to India, again at the suggestion of the Government, and in an able pamphlet pointed out the evils caused by differences of gauge.<sup>3</sup> Also, outside England, he had undertaken the reorganization of the Erie Railroad in the seventies, and in this country he was chairman not only of the Sheffield but also of the

<sup>1</sup> He stated in 1876 (Herapath, January 29, p. 112) that he joined the Board of the Sheffield in 1854, but he meant that he "worked the company" from then; Allport had left the Sheffield for the Midland in the previous year. But even in 1854 Watkin was taking a big part in the meetings of the company, answering questions and making speeches in a way unusual for an officer (*Railway Times*, February 10, 1855, p. 125, and August 26, 1854, p. 929, and November 10, 1855, p. 1188; also p. 1191, his speech as president of the Manchester Railway Club).

<sup>2</sup> See "Canada and the States: Recollections, 1851-1886," by Sir E. W. Watkin, Bart., M.P., 1887; a rambling volume of 500 pages, containing some valuable correspondence.

<sup>3</sup> Herapath, April 19, 1901, p. 397, obituary notice. (He died April 13, 1901.) Watkin was knighted in 1868, and made a baronet in 1880. He wrote a small volume of Indian recollections, entitled "India," a biography of his father Absalom Watkin, and one of Cobden ("Alderman Cobden of Manchester"), and helped to found the *Manchester Examiner*.

South Eastern and the Metropolitan. He was also an active member of Parliament, and was for a time a director of the Great Western and of the Great Eastern. Shareholders sometimes ventured to criticize his variety of engagements, but he had Hudson's masterly power of controlling them, and, like Hudson, he could appeal in popular and convincing manner to the marked improvements in the properties with which he was concerned.<sup>1</sup> He might, in fact, be compared with Hudson in many respects,<sup>2</sup> in his power of persuasion, in his grasp of finance, his intimacy with railway problems, his organizing skill and appreciation of able officers, in his far-seeing estimates of future development—above all, in the great ambition that distracted him and led to wasteful struggles and unnecessary promotions. But, unlike Hudson, he was honest.<sup>3</sup> Sheffield proprietors grumbled at his policy in 1875 on the ground that he diverted their revenue to purposes which were properly capital account.<sup>4</sup> His conduct has been criticized in connection with the South Eastern Railway, in later years, on the opposite ground; it was said that he divided too freely and allowed the company's property to depreciate. This is hardly fair.<sup>5</sup> Sir Edward

<sup>1</sup> Herapath, January 29, 1876, p. 112, when Sir Edward Watkin made very pointed comments on the character of Mr. Fielden, who had criticized his tenure of office. See also Herapath, July 31, 1875, p. 782.

<sup>2</sup> In an obituary notice, Herapath (April 19, 1901, p. 397) singles out the following as "pre-eminent railway men"—Stephenson, Ellis, Moon, Allport, Laing, Parkes, Hudson, and Forbes; but concludes that in "versatility, originality, aggressive force, and individual daring," Watkin surpassed them all.

<sup>3</sup> "His integrity was unquestioned," Herapath, April 19, 1901, p. 397.

<sup>4</sup> M.S. and L. Half-Yearly Meeting, Herapath, July 31, 1875, p. 780.

<sup>5</sup> *Railway News*, July 9, 1898, p. 60. Reference is made to a letter in the *Times* which stated that both the South Eastern and Chatham lines had been starved for many years; the Chatham because it had no money, the South Eastern "because a mistaken policy had led to an almost flagrant indifference to public wants and interests." The *Railway News* disputed this statement, and argued that the S.E.R.

Watkin believed in giving the shareholders all he could, classing himself very definitely with the old school of directors, who stood for dividend interests rather than expert knowledge, but he did not neglect reserves.<sup>1</sup> He did not favour the movement for extending facilities, improving premises, and adding to the luxury of travel, which was going on in his last years ; his idea was that certain minimum requirements being amply satisfied, traffic came readily enough without the expensive attractions which were beginning to be introduced in the nineties. But by then he had outlived his own generation, and his policy, suitable to the seventies, was perhaps falling out of date.

We have seen how frankly he expressed to the Joint Committee of 1872 his readiness to do a deal for the Sheffield with powerful neighbouring companies.<sup>2</sup> In 1876 he attempted to enlarge the company's territory by an independent amalgamation with the North Staffordshire Company. This company had been engaged in negotiations with the North Western and the Midland early in 1875. Nothing came of these, but a conversation in November of that year, between Watkin and the North Staffordshire chairman, Mr. Colin Campbell, M.P., resulted in an agreement to amalgamate on the basis of taking the ordinary stocks of both companies at par.<sup>3</sup> The latter gentleman, in putting the proposal before his shareholders, took a pessimistic view of his company's position, and spoke of the impossibility of a small company working successfully amongst large adjacent companies. It happened, however, that the amalgamation proposal

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had spent in the last ten years more money on new plant and rolling stock than any other southern company.

<sup>1</sup> In negotiating with the G.N.R. he laid stress on the Sheffield reserves. See his letter to Colonel Duncombe in 1877, "our prudent nest egg of reserves" (Grinling, p. 328).

<sup>2</sup> Above, p. 239.

<sup>3</sup> Speech of Mr. Colin Campbell at Special Amalgamation Meeting of North Staffordshire Railway (Herapath, January 29, 1876, p. 113).

failed, and the North Staffordshire has remained independent yet prosperous to the present day. It is probable that the opposition of the North Western and the Midland would have been fatal to the proposal;<sup>1</sup> Parliament might have sanctioned an arrangement giving the North Staffordshire to these companies in common with the M.S. and L., but not to the latter alone. But the scheme failed in the preliminary stages through the directors of the two Boards failing to agree upon terms. They settled upon a traffic agreement, but whereas Sir Edward Watkin wished this to be permanent, and the forerunner of amalgamation, the North Staffordshire Company wished to be certain about amalgamation before they accepted the agreement.<sup>2</sup>

Then in 1877 there came a much more important negotiation between the Sheffield Company and the G.N.R. and Midland. The two latter had fought in their younger days, but now they were united in desiring to end the troubles into which the scheming Sheffield Company seemed capable of bringing them. The three companies were brought together in 1865 by their desire to obtain access to Liverpool, which resulted in their joint establishment of the Cheshire Lines Committee.<sup>3</sup> But these lines were rather a burden to the three companies, and the enterprising spirit in which Sir Edward Watkin wished to conduct them alarmed the Midland and the Great Northern.<sup>4</sup> The Great Northern, which had been engaged in 1876 and 1877 in fruitless negotiations for a fusion with the Great Eastern,<sup>5</sup> suddenly, in the autumn of 1877, took

<sup>1</sup> See Herapath, January 1, 1876, p. 14, for this probability and for a review of stocks of N.S. and of M.S. and L.

<sup>2</sup> *Ibid.*, July 29, 1876, p. 812; M.S. and L. Meeting, August 5, 1876, p. 840, N.S. Meeting.

<sup>3</sup> Williams, pp. 202-206. For the history of the Cheshire lines, see *Railway Magazine*; May, 1913, pp. 385-399—"The Cheshire Lines Committee, Britain's Premier Joint Railway" (with maps).

<sup>4</sup> Grinling, p. 327. Stretton, p. 222.

<sup>5</sup> Grinling, p. 326, and speech of Lord Colvill, deputy chairman of G.N.R. at Half-Yearly Meeting, August, 1877 (Herapath, August 18, 1877, p. 875).

up the question of the Sheffield, and soon arranged with the Midland to buy up that unpleasant partner and rival, before it "got its claws into" the G.N.R. and Midland any further.<sup>1</sup>

The negotiations began on October 16, and ended on November 9, 1877. They were conducted hurriedly, as if the matter was very urgent. The main points in the terms offered to the Sheffield were that the two leasing companies would from July 1, 1878, assume the loan capital of the Sheffield Company, pay the guaranteed and preference dividends, and pay on the ordinary stock a dividend which would rise from £2 15s. for 1879 to £4 per cent. for 1882 and every succeeding year. Sir Edward Watkin and his colleagues objected to the sliding scale of dividends up to 1882, and secured a favourable amendment of the terms, but the question of the security for the dividends could not be satisfactorily settled, and negotiations broke down on that question. The proposal of the Midland and Great Northern Companies was that the dividend should be charged on a fund formed by the gross receipts from traffic on the Sheffield line and the Cheshire lines. Sir Edward Watkin did not consider this sufficient security. There was, he argued, no point in this "hypothecation of a special and fluctuating interchange of traffic." He admitted there was little doubt of the traffic amply covering the liability. "The contingency of its not doing so is probably remote to the extent of improbability. But, nevertheless, the contingency would be present to the shareholding and investing minds," and therefore his colleagues could "only accept a dry 4 per cent. on the condition of the guarantee having the full nature of a rent charge. In fact, they could give no excuse for taking 4 per cent. for a safe 5 per cent. line, were they to accept a

<sup>1</sup> Grinling, p. 327. See also Williams, p. 284, for some comments on the various "flirtations" of the Sheffield with other companies.

security which must sell at a discount."<sup>1</sup> In vain did the Midland and Great Northern assure Sir Edward Watkin that the dividends would be "secured in the most satisfactory manner that the solicitors can devise and Parliament will approve." The Sheffield reply was that if an absolute rent charge of 4 per cent. could not be arranged, then the terms must be  $4\frac{1}{2}$  per cent. "secured in the most satisfactory manner," etc. In spite of further assurances as to the 4 per cent. basis offered by the Midland and Great Northern, the Sheffield adhered to their demands for 4 per cent. absolutely secure, or  $4\frac{1}{2}$  per cent. as secure as was ordinarily possible. The two companies declared that the Sheffield were asking for a "security that was impossible" (since it would have to take priority over debentures), simply in order to get the alternative  $4\frac{1}{2}$  per cent.

It is not easy to find any defence for the Sheffield attitude. To the modern Great Central Company, into which it has expanded, a 4 per cent. dividend secured by the Midland and Great Northern would be a god-send. But if the terms of 1877 had been accepted there would have been no Great Central Company. Yet it must be borne in mind that the Sheffield Company was looked upon as an improving property in 1877.<sup>2</sup> The ordinary stock, for many years only of prospective value, had been receiving a better dividend year by year since 1868, and though the dividends were still small—£2 10s. in 1875, £2 5s. in 1876, £2 17s. 6d. in 1877—these were a great improvement on the £1 5s. paid in 1868, and the company's prospects were undoubtedly favourable.<sup>3</sup> Sir Edward

<sup>1</sup> The correspondence between the Companies, from which these extracts are taken, is given in full by Herapath, November 17, 1877, p. 1202-1205.

<sup>2</sup> Herapath, January 26, 1878, p. 97. Article with list of dividends from 1868.

<sup>3</sup> The ordinary stock was quoted at between 70 and 80 in 1875, 1876, and 1877. The following quotations show the effect negotiations with the North Staffordshire and with the two companies in 1877:

Watkin, who had seen the company improve to such a marked extent in the twenty years during which he had been connected with it, and who cherished the most ambitious hopes for its future, cannot be summarily condemned for refusing the terms of the Great Northern and Midland, though his judgment may be criticized. He put the matter before his shareholders in January, 1878, in these words :<sup>1</sup> "The deferred stockholders unanimously approved the directors' refusal of the terms offered. Some of the preference and preferred stockholders said that a 4 per cent. guarantee, even if it was not a rent charge, would have been better, as a certainty on the bird-in-the-hand principle, than risking what might happen in the present troublous state of politics both at home and abroad. He was always ready to take a bird-in-the-hand, but he must be convinced that the bird could sing a note or two. He had made up his mind long since that he should never advise them to sell their line for less than par for the ordinary stockholder. If bad times continued, they might find themselves . . . wishing they had the Great Northern 4 per cent. But they were bound to look at a property of this kind, not in regard to its position over a month or two, . . . but to the permanent position of the property. It was for them to consider whether, when the capital which was now unproductive became productive, when trade revived, whether they were really not worth more than a guarantee of 4 per cent."

It is not necessary to discuss in detail the transformation of the M.S. and L. into the Great Central Com-

*Jan., 1875. Mar., 1875. Oct., 1875. Dec., 1875. Mar., 1876. Dec., 1876.*

M.S. and L.	74	79	83	87	71	73
N.S.	-	59	72	77	84	70

(The North Staffordshire Stock was affected by negotiations with the North Western early in 1875) :

Oct. 5, 1877	-	76	Nov. 2, 1877	-	85
M.S. and L.	-	19,	"	79	9,

<sup>1</sup> Herapath, January 26, 1878.

pany, and its extension to London, which was not finally accomplished until 1899 ; Parliamentary sanction had been refused after a great struggle in 1891, but was granted two years later.<sup>1</sup> The transaction may be regarded in some ways as the negation of the economic principle underlying amalgamation. By giving the country an extra trunk line to London, it added one more company to those which already shared the traffic and reduced thereby the possibilities of economizing by production on a larger scale.<sup>2</sup> The running of competitive trains and the capital expenditure of the competing companies were increased, and though it may be argued in favour of the G.C.R. that their extension to London was but a repetition of previous railway history, namely, the establishment, in the teeth of vested interests, of the Great Northern and Midland as trunk lines, it has yet to be proved that London needed the accommodation of this latest link with the Midlands, and the expenditure involved has not yet been justified. In the end the long view may prove correct ; the recent improvement in the position of the G.C.R., and its enterprising management may lead eventually to success.

It is interesting to reflect on the various combinations and oppositions displayed in the history of the Midland, Great Northern, Great Eastern, and Great Central Companies. In the forties the Midland had cried out against the projected Great Northern ; by 1863, when the Midland were no longer content to send their traffic to London over other companies' rails, and were taking power to construct their own line from Bedford to London, the Great Northern, an established trunk line, in turn protested against this invasion. There had been complicated struggles between these companies and the

<sup>1</sup> See Grinling, pp. 405-413. Bradshaw's " Railway Manual " gives the Act of 1893 and its subsequent amendments.

<sup>2</sup> See Departmental Committee, 1911 ; Evidence, Question 18,744, where the " folly " of the M.S. and L. extension to London is discussed.

Great Eastern, which was extending northwards in the sixties, and incidentally a give-and-take arrangement between the Midland and the Great Eastern, by which St. Pancras and the Tilbury Line were connected,<sup>1</sup> led in 1912 to the amalgamation of the London, Tilbury, and Southend Company with the Midland. In 1876 the Great Northern attempted to straighten the tangle by taking over the Great Eastern. In 1877 the Midland and Great Northern put aside their hostility and united in trying to buy up the troublesome Sheffield Company. In the present day, when the Sheffield has become the G.C.R., and has done its worst in the way of accentuating the competitive struggle, the irresistible tendency to combine has been shown by the proposed working union of the Great Northern, Eastern, and Central Companies.<sup>2</sup>

Such an alliance, however, formed no part of Sir Edward Watkin's plans, though as a director of the Great Eastern Railway,<sup>3</sup> he might have contemplated, as Hudson before him had done, the union of that company with his company in the midlands. In carrying the Sheffield Company to London he once more disturbed the railway world which he had so constantly agitated with his restless schemings, but by that stroke he accomplished only a small part of his ambitions.

He was chairman not only of the Sheffield, but also of the Metropolitan and South Eastern Companies. He intended to unite the three—a combination which would have taken the Sheffield line through London to the coast at Dover. It actually happened, that by means of the former company, the Great Central

<sup>1</sup> Stretton, p. 188.

<sup>2</sup> It is noticeable that the N.E.R., which is so closely allied with the G.N.R., for Scotch traffic, has generally been outside the negotiations between the other companies; but in 1891 the union of the N.E.R. and the G.N.R. was seriously considered (see *Railway News*, 1891, December 12 and 19).

<sup>3</sup> Grinling, p. 242.

Company reached London, and the Act of 1893, sanctioning the extension, gave power to the South Eastern to subscribe to the extension capital.

But Watkin's ideas did not stop at Dover. It was there that the Channel Tunnel which he advocated and promoted was to be constructed, and by means of that tunnel his trains would have run through from the middle of England to all parts of the Continent. One must admire the grandeur of such a conception. And without expressing an opinion on the extent to which the project might have benefited or prejudiced the general railway position, or the particular interests of other railway companies, one may at least regret that Watkin allowed his wider outlook to be obscured by a rather petty struggle with the London, Chatham and Dover Company, and wasted his time and talents in a conflict which was largely personal, and had no bearing on his main railway plans.<sup>1</sup>

The struggle between the South Eastern and Chatham Companies was ended by their combination in 1899, after Sir Edward Watkin had retired. But for thirty years preceding that date, he played the leading part in the struggle, and in the fruitless attempts that were made to end it.

The Chatham Company was incorporated in 1853 as the "East Kent."<sup>2</sup> It was promoted by landowners who required railway accommodation between Strood and Canterbury; was in fact a link between the South Eastern lines at those two points. The East Kent was not opposed by the South Eastern; indeed, it was considered a subsidiary undertaking, and there were such wide powers for working the two railways as one

<sup>1</sup> "Sir Edward Watkin would probably have filled in his ambitious programme more completely were it not his fate to meet Mr. Forbes, once his protégé, and for many years his adroit enemy. A good ten years of his life were spent in endless lawsuits, recriminations, and wrangles over the Chatham and South Eastern" (Herapath, April 19, 1901, p. 397).

<sup>2</sup> 16 and 17 Vict., c. 132.

system in this and in subsequent Acts, that when at last they came to terms in 1898 they were able forthwith to consolidate management and operation, though in the next Session of Parliament, "ex abundante cautela," they obtained express sanction for the union.<sup>1</sup>

But the existence of powers enabling companies to combine does not necessarily bring them together. The Kentish companies were dominated by two powerful men whose antagonism caused the companies, in spite of their common interests, to struggle and fight and scheme against each other for many years. And, on the other hand, when the two had become well established as rival carriers at every large town, and were thus thoroughly equipped for competition, it was shown when the personal factor was removed, that no force could compel the companies to compete when the desire to do so had gone.

In the beginning the South Eastern made a mistake in allowing the independent East Kent Company to supply the railway link between Strood and Canterbury. When the East Kent struggled into existence, the South Eastern continued to behave in a short-sighted and unconciliatory manner; the connections with South Eastern trains at each end of the East Kent system were notoriously exasperating. The East Kent, no longer controlled by Kentish landowners, but falling into the hands of contractors, began to strike out on its own, in open rivalry to the South Eastern; an extension from Canterbury to Dover was sanctioned in 1855;<sup>2</sup> one from Strood towards London in 1858.<sup>3</sup> In 1859 the name East Kent was changed to "London,

<sup>1</sup> The Act of 1899 was also required for financial powers.

<sup>2</sup> 18 and 19 Vict., c. 187.

<sup>3</sup> 21 and 22 Vict., c. 107. The railway sanctioned was from Strood to St. Mary Cray. Thence the Chatham obtained access to London over the lines of three small companies—the Mid-Kent, the West-End and Crystal Palace, and the Victoria Station and Pimlico Railway.

Chatham, and Dover." Gradually, by many small and complicated acquisitions, by most costly and difficult extensions and adaptations, the Chatham Company came into competition with the South Eastern throughout its whole length.<sup>1</sup> The Chatham was hampered from the start with heavy construction expenses, and was never in a position to compete on equal terms. But it could fight with a bankrupt's reckless disregard for the consequences ; Parliament had interfered, in 1867, to rearrange the Chatham finances,<sup>2</sup> and to this day the company has never paid a penny on some £11,000,000 of ordinary stock.

A third company, the Brighton, was concerned in some of the South Eastern and Chatham negotiations, and was throughout closely connected with the South Eastern. The case for a combination of the Brighton and the South Eastern has always been a strong one. Probably they would have been united long ago had not the South Eastern been distracted by their struggle with the Chatham, and compelled to give that the prior consideration. In early days the Brighton and the South Eastern had their joint terminus at London Bridge, and both sent out their traffic thence over the rails of the Croydon Company ; at Croydon the Brighton system commenced ; the South Eastern shared it as far as Redhill, whence the South Eastern proper extended eastward to Dover.<sup>3</sup> In 1846 the London

<sup>1</sup> An Act of 1860 sanctioned the Chatham extension to Blackfriars, now a goods station, but formerly a passenger terminus (23 and 24 Vict., c. 177). The further extension to Holborn Viaduct, with a new bridge over the Thames and a new station at St. Paul's, was not completed until 1886.

<sup>2</sup> Bradshaw's "Railway Manual" for 1881 ; *Railway Times*, August 17, 1867, pp. 839-40 (criticism of the Arrangements Bill of 1867, authorizing "the bankrupt concern to fleece its mortgagees"). See also *Journal of the Royal Statistical Society*, vol. xxxv., 1872 : "the Bank Act and the Crisis of 1866." The Chatham Company's finance is used to illustrate the argument that false prosperity was created by the issue of excessive and unsound paper securities (p. 181).

<sup>3</sup> Interesting details of the traffic were given by the South Eastern chairman in 1846. The Brighton Company ran 129 trains to and

Bridge joint station was managed by a joint committee appointed from the Brighton, South Eastern, and Croydon Boards. In that year the chairman of the South Eastern Company, Mr. MacGregor, gave strong evidence before Morrison's Committee on the advantages the companies might reap from consolidation.<sup>1</sup> The Brighton absorbed the Croydon Company in 1846, the South Eastern being secured in their rights over it—but further consolidation did not take place. The Brighton and the South Eastern Companies have remained distinct, though their remarkable identity of interest has necessitated co-operation. At London Bridge and at Victoria their stations are side by side; from the latter they share the same exit, the costly bridge over the Thames; of the fifty miles between London and Brighton, twenty-one miles of railway between London Bridge and Redhill are subject to the common use of both companies. Outside London there are many towns served by both companies, and to prevent competition they not only divide the traffic at all these places, but, further, they have made agreements binding themselves not to concur in any action which either company might deem hostile to its interests.

The South Eastern and the Chatham were not always at war. In 1866 they made peace and combined in an attack upon the Brighton Company. After a considerable struggle they obtained an Act giving them power to construct a rival line, the London, Lewes, and Brighton.<sup>2</sup> Watkin told the South Eastern shareholders in August, 1866, that the

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from London Bridge in the course of the week; the Croydon Company 270 trains; the South Eastern 104 trains. The staff at the joint London Bridge station numbered 112 men, including 31 porters, etc., on the platforms, 37 cleaners, 6 policemen, and 4 ostlers (Select Committee, Railway Acts Enactments, 1846; Evidence, Questions 2,702, 2,714).

<sup>1</sup> *Ibid.*; Questions 2,723-24.

<sup>2</sup> *Railway Times*, August 1, 1866 p. 954, "Results of the Session."

Act had been passed in spite of serious opposition.<sup>1</sup> But the exact value of the campaign was not clear, for he went on to say that owing to the monetary depression and the need of all railway companies for a period of rest, he "did not intend to touch the thing for a year." If, after that, the shareholders thought it prudent to construct the line, "we shall," he said, "then be ready to show you the way in which we think it should be proceeded with." This was not a very definite pronouncement. He proceeded, however, to disclose his reasons for belittling the powers just obtained from Parliament. He had arranged a meeting with the Brighton chairman as soon as ever the powers had been secured, and had agreed with him to abstain from further contests, and generally to promote "friendly relations and co-operation" between the two companies. The shareholders were so delighted to hear this, that they did not think of asking whether friendly arrangements could not have been secured without this expensive preliminary—the promotion of a rival line to Brighton.

However, the South Eastern and Brighton proceeded to act together most harmoniously, and the projected line was abandoned in 1867 in favour of an agreement between the two companies, which was to include the somewhat unwilling Chatham Company, and was to be followed by an amalgamation of the three companies.<sup>2</sup> In 1868 a Bill was promoted for this purpose; it contemplated a working union of the three companies—that is "an absolute fusion of their traffic and plant,"

<sup>1</sup> *Railway Times*, September 1, 1866, p. 1027, "South-Eastern Railway Half-Yearly Meeting."

<sup>2</sup> *Ibid.*, August 3, 1867, pp. 767 68; also February 16, 1867, p. 162, Brighton Company's Half-Yearly Meeting, where Mr. Laurie (chairman), referring to the London, Lewes and Brighton project, said the Chatham Company could not carry out their part of the contract. The South Eastern, he continued, were thus left to do it alone, and they had chosen instead to make a friendly arrangement with the Brighton Company. This announcement was received with great applause, as was Watkin's at the S.E.R. Meeting.

leaving their separate share and loan capitals distinct.<sup>1</sup> This Bill was well received and passed in the Commons, but after being read a second time in the Lords, it was criticized in Committee, and a proposal was made to reduce the maximum rates of the South Eastern.<sup>2</sup> The companies attempted to make a compromise on this point, offering to adopt a lower scale of rates when the South Eastern profits gave a 5 per cent. dividend, but the Committee declined this, and the Bill was thereupon withdrawn. This was the most successful and the most comprehensive of the many attempts at fusion during the thirty years that intervened between 1868 and the actual union of but two of the companies—the South Eastern and Chatham in 1899.<sup>3</sup>

When the business was reopened in 1875 and constantly negotiated in that and the two following years, the Brighton Company were no longer concerned, and the struggle was largely a personal one between the giant of the railway world, Sir Edward Watkin, and Mr. J. S. Forbes, the astute chairman of the Chatham Company. They were exceptionally able men, overshadowing their respective Boards of Directors, and they were so closely matched that the natural compromise, the capitulation of the smaller Chatham Company

<sup>1</sup> Herapath, February 29, 1868, p. 239.

<sup>2</sup> Mihill Slaughter, "Railway Intelligence," No. XV. (January, 1869), pp. 168-69; Herapath, June 27, 1868, p. 664. See also a detailed account of the proceedings in the House of Lords, in *Railway News*, November 19, 1892, p. 739, "The Chatham and South Eastern Fusion." The railway opposition was strong; five companies opposed the Bill, and four of them, including the North Western, Great Western, and South Western, were allowed to petition (Clifford and Stephens, *Practice of Court of Referees on Private Bills*, Appendix IV.).

<sup>3</sup> Mr. Forbes, referring in 1875 to the failure of the 1868 Bill, said that "the House of Lords wanted to reduce rates and fares by £30,000 a year" (Herapath, August 14, 1875, p. 838). Sir Edward Watkin also named this figure (*ibid.*, July 31, 1875, p. 783). Presumably this was the estimate made at the time of the loss that would be incurred on the South Eastern section of the three combined companies; a large sum no doubt for a comparatively small railway, but one that might surely have been saved twice over by the amalgamation.

was out of the question. On the other hand, concessions in the terms of union offered by the South Eastern were of no avail so long as union involved the subordination of Mr. Forbes to Sir Edward Watkin. It was impossible for either of them to contemplate serving under the other, and they were too active to think of retirement ; so the companies remained apart, in agreement, it is true, for the division of their receipts from Continental traffic, but continually quarrelling over it,<sup>1</sup> and scheming to outwit each other at every point. The antagonism between the chiefs did not tend to improve the relations between the officials of the two companies, but, in spite of that, there can be little doubt that a fusion would have been quickly and easily accomplished if at any time the career of either chairman had been cut short, or promotion found for him in some field far removed from the Kentish railways.

We have already discussed Sir Edward Watkin's character. Mr. Forbes had been trained on the Great

<sup>1</sup> This was brought to a head by the prolonged litigation with reference to the Folkestone traffic, 1884-93. When the Continental pooling arrangement was made in 1865, the South Eastern Company threw in the local traffic at Folkestone to simplify the accounting work. Subsequently Folkestone developed, and on the west of the town a new and fashionable quarter was created, and the residents, by means of new roads, were attracted to the new South Eastern station, called Shorncliffe, erected by the site of a small roadside station which had for many years served Shorncliffe Camp. The Chatham Company claimed that this new and valuable Shorncliffe traffic should be put into the pool. The case was strenuously contested, and finally decided against the S.E.R., who were ordered to pay to the Chatham their due share of the Shorncliffe traffic from the time of the opening of the new station. Early in the dispute, however, the S.E.R. had ceased to render any accounts, claiming that the Chatham had broken the agreement by encouraging traffic between Queenboro' and Flushing. When the amount due on the Shorncliffe traffic was calculated by the referee, he found that the S.E.R. were liable to pay interest on the sum which they had kept from the Chatham. Further litigation resulted, and when the case had for a third time gone up to the House of Lords, the decision on this point was in favour of the S.E.R. The interest which they thus escaped from paying was put at £36,745 in the Official Referee's Report of November, 1890 (Law Reports, 1892, I. Chancery, pp. 120-153).

Western Railway, whence he had gone to Holland to manage the Dutch Rhenish Company. In 1861 he became general manager of the Chatham, joined the Board ten years later, and in 1873 became chairman as well as general manager ; these two offices he held until the working union of 1899, when an honorary post was made for him as adviser to the two companies.<sup>1</sup> One may regret that his talents were misdirected, and many deplore the strife which he encouraged between his company and the South Eastern, but one must admit that he succeeded in the end in securing very favourable terms for his company in 1899, though less favourable ones twenty years earlier might have been a far better investment for his shareholders. And one is compelled to admire the diplomatic skill he displayed, his almost impudent confidence in the improving prospects of a company which had fallen so low that it could hardly deteriorate further, his cynical disregard of ordinary standards (depreciation, he said, "is a mere question of academic doctrine"), his adroit, subtle, and persistent manœuvring of the dilapidated little Chatham Company, against the direct attacks of the more powerful South Eastern.

It should be noticed that Mr. Forbes and Sir Edward Watkin were not only opposed to each other in Kent, but carried their rivalry into the London area, where the former, as chairman of the District Company, manipulated that railway against Sir Edward Watkin's Metropolitan Company.<sup>2</sup> The District Company, like

<sup>1</sup> *Railway News*, April 9, 1904 (p. 589, obituary notice). Mr. Forbes died on April 5, 1904, aged eighty-one. In this notice his skill in swaying large meetings is well depicted, "the delicacy of his touch, his light banter, and personal charm." Besides the Chatham and the District Railway, he was for a time interested in the Hull and Barnsley. He was chairman of three electric - light companies, director of the Lion Fire Insurance Company, and president of the National Telephone Company. In private life he was noted for his fine collection of pictures.

<sup>2</sup> Herapath, February 3, 1875, p. 180. Also April 22, 1876, p. 447. Letter from "Lector," suggesting combination of the four companies :

the Chatham, has never paid a dividend on its ordinary stock.

The position of the Chatham may be gauged to some extent by examining the price of its stock. In 1869 the ordinary stock was quoted at 15. It was some five points higher when rumours of amalgamation began to affect it in 1875, and in April of that year it was quoted at 28, but declined later in the year, when negotiations between the two companies failed. The South Eastern stock, however, was little influenced. It stood high on the strength of the company's sound and prosperous condition. In later times both the profits and the popularity of the company declined. But in 1875, when Watkin proudly pointed to the improvements of the last ten years, and called attention to the rise of the stock from 30 below par to a premium of 15, he was not thought to over-state the prospects of the company in claiming that it was the "soundest of all English railways." It was popular with an immense stream of suburban passengers, for whose benefit the two-mile extension from London Bridge to Charing Cross had recently been made at a cost of £4,000,000 sterling.<sup>1</sup> Its efficiency was contrasted with the indifferent condition of the Chatham, and the Stock Exchange echoed general opinion in favouring the absorption of the Chatham in the South Eastern.<sup>2</sup>

The negotiations of 1875 were for a working union, with a distribution of the receipts between the two companies on the basis of the accounts for 1874; 66·15 per cent. to the South-Eastern, 33·85 per cent.

"Watkin and Forbes could do it, but year by year they only agree to differ ; we do not live in the age of patriarchs now." Lector's letters to Herapath from 1875 onwards contain many strong comments on the conduct of the two chairmen.

<sup>1</sup> Herapath, February 13, 1875, p. 172 : "We believe that most railways have an improving future before them, but very few so good as the South Eastern."

<sup>2</sup> *Ibid.*, p. 159. Stock Exchange circular referred to at Chatham Meeting.

to the Chatham. When the negotiations failed, Mr. Forbes told his shareholders that the failure was due to the action of the South Eastern in altering these agreed terms of division, and offering the Chatham a smaller share—namely, 32 per cent.<sup>1</sup> Sir Edward Watkin's version was different. He said that under the pooling arrangements (by which, since 1865, the two companies had divided their receipts from Continental traffic), the Chatham received £40,000 a year for traffic which they did not carry. The Chatham wished to count this item to their credit. The South Eastern could not agree, though when the disputed figure had been narrowed down to £13,000 a year, they suggested arbitration, but in vain.<sup>2</sup> The statement of neither chairman was conclusive, and it may reasonably be argued that if combination were as desirable as they maintained, some more persistent effort should have been made to settle these small differences.<sup>3</sup> Probably the Chatham were more to blame than the South Eastern; there was a defiant tone in Mr. Forbes' remarks about the future of his Company, and the necessity of allowing for the future in calculating terms of union,<sup>4</sup> and on the other hand, Sir Edward Watkin's desire for union was apparently sincere. He said that the "alternatives were to occupy the shortest route everywhere and so defy competition, or to make friendly arrangements with their neighbour. It would be an expensive business to beat the Chatham at every point, for they had the shorter route to Canterbury, Maidstone, and

<sup>1</sup> London, Chatham and Dover Half-Yearly Meeting, August, 1875 (Herapath, August 14, 1875, p. 838).

<sup>2</sup> South Eastern Railway Half-Yearly Meeting, July, 1875 (Herapath, July 31, 1875, p. 782). See also Herapath, April 1, 1876, p. 375. Lector's letter *re* arbitration.

<sup>3</sup> Herapath, March 25, 1876, p. 360. Leading article: "wretchedly small sum in dispute"; "fault seems to rest with the two Boards."

<sup>4</sup> Herapath argued (November 4, 1876, p. 1184) that the Chatham were not improving, and could have obtained better terms in 1870 than they were now entitled to.

Margate. Friendly arrangements were more sensible, and he had striven for them since 1858 and 1861 when, as a shareholder, he had made suggestions which would have stopped endless warfare and loss to the two companies."<sup>1</sup>

In 1876 the question was re-opened after a delay which prompted many shareholders who were members of the Stock Exchange to write urging amalgamation.<sup>2</sup> At the end of the year, in December, 1876, an arrangement for fusion was at last announced ; application was to be made to Parliament "at the earliest period," but it would be withdrawn if Parliament again attempted to impose unreasonable reductions of charges. The two companies would improve communications, and give the public various advantages. The Brighton Company would be given the option of pooling competitive traffic with the united companies. The total net profits of the South Eastern and Chatham would be divided on a scale that gave the Chatham an increasing proportion for the first five years, after which the proportions would be fixed at 33 per cent. to the Chatham, 67 per cent. to the South Eastern. After an agreed period of years, complete amalgamation would be effected by fusing the capitals of the two companies, on a basis of the results shown by the division of net profits.<sup>3</sup>

This appeared to be a satisfactory arrangement, but it came to nothing. The companies petitioned in February, 1877, for leave to bring in their Amalgama-

<sup>1</sup> South Eastern Railway Half-Yearly Meeting, 1875.

<sup>2</sup> Their petition is given Herapath, July 1, 1876, p. 713; their names July 15, p. 754. See also letter on p. 447 (April 22, 1876) suggesting that the Chatham directors have personal interests preventing them from arranging amalgamation ; also similar complaints of delay, p. 789 (July 22), p. 1024 (September 23), p. 1056 (September 30).

<sup>3</sup> These terms are set out in a letter signed by Watkin and Forbes (Herapath, December 16, 1876, p. 1342). The details were explained by Watkin at S.E.R. Half-Yearly Meeting, January, 1877 (Herapath, January 18, 1877, p. 56).

tion Bill, but they were refused, the Standing Orders Committee deciding that there was no reason for suspending Standing Orders in their favour.<sup>1</sup> The Bill was therefore rejected for the Session. Mr. Forbes told his shareholders in August, 1877, that they had "been in default with reference to a few technicalities under the Parliamentary Standing Orders," and the whole matter was therefore postponed till the following year. He suggestively remarked that this gave the shareholders the advantage of considering the question afresh if they chose to do so.<sup>2</sup> When the Reports of the two companies were issued early in 1878, the South Eastern Company stated that a Bill for the working union of the two had been duly lodged in Parliament, and at their meeting this was approved by the South Eastern shareholders. But Watkin commented on "a little movement of the Chatham proprietary against this great and important measure,"<sup>3</sup> and though he expressed his belief that this opposition would prove to be trifling, it became clear when the Chatham Meeting was held two weeks later, that this was not the case.<sup>4</sup> Mr. Forbes declared he had never before received so many letters from proprietors; he took it there was a strong disposition on their part to reject the agreement, and therefore he must "lay the facts fairly before them." He hardly accomplished this, for the short speech which he made only contained some general pros and cons on amalgamation, with a strong leaning towards the contrary opinion. He used grave language; the

<sup>1</sup> Herapath, March 3, 1877, pp. 246, 247.

<sup>2</sup> L.C. and D.R. Half-Yearly Meeting, Herapath, August 11, 1877, p. 831. Watkin made no reference to the Bill at the South Eastern meeting, but spoke of partnership with the Chatham, which he hoped would be accomplished by the "efforts" of Mr. Forbes and himself (Herapath, July 21, 1877, p. 737).

<sup>3</sup> Report for half year ending December 31, 1877 (Herapath, January 26, 1878, p. 87; also p. 132).

<sup>4</sup> L.C. and D.R. Half-Yearly Meeting, February 14, 1878 (Herapath, February 16, 1878, p. 176).

time had perhaps not yet come for the amalgamation of their "young concern, struggling with great difficulties, heavily weighted in many ways"; the future was uncertain, the advantages of fusion indefinite. "Morality and law" required that he should put the case before the shareholders, but they must judge. A shareholder, Mr. Abbott, then did the work of destruction, moving that the proprietors did not approve of the Bill, which he termed "absolute confiscation." The meeting favoured this motion, and listened with impatience to those shareholders who ventured to urge fusion. In the end amalgamation was rejected almost unanimously, and the three years' negotiations were ended.<sup>1</sup>

It is not necessary for us to recount subsequent attempts at fusion before 1898; the most important one was that made by Mr. Spens in the early nineties.<sup>2</sup> Our only reason for dealing at length with a comparatively small question is that it illustrates admirably the human aspect of railway consolidation, an important aspect that is sometimes overlooked. Amalgamations are not governed purely by economic motives; if they were, their history would be less devious and more possible of generalization. Impersonal as they may seem, great railway companies have not infrequently been made the fighting ground of strong individuals.

The combination, however, that was at last effected must be described.

Sir Edward Watkin retired in 1894, succeeded as chairman at short intervals by Mr. Byng, Sir George

<sup>1</sup> Sir Edward Watkin referred to the matter at the S.E.R. meeting in July, 1878—"the Chatham shareholders thought the agreement too good for you and too bad for them" (*Herapath*, July 27, p. 833).

<sup>2</sup> Mr. Spens led a shareholders' committee which urged amalgamation. (He became a director of the Chatham Company in 1909.) *Railway News* (vol. lviii.), November 19, 1892, pp. 739-741, "The Chatham and South Eastern Fusion," an interesting historical review, containing Mr. Spens' circular; see also November 12, p. 724, and December 31, p. 963, of same volume.

Russell, and Mr. Cosmo Bonsor. The last was determined to unite his company with the Chatham, and he succeeded in conciliating Mr. Forbes. A working union was put before the shareholders, and freely discussed by the public in 1898, and was sanctioned by Parliament in August, 1899.<sup>1</sup>

By the Act the two companies were worked as one concern by a Managing Committee of nine — the chairman and four directors of the South Eastern, and four directors of the Chatham other than Mr. Forbes.<sup>2</sup> For capital purposes the Companies remained distinct ; complete fusion was almost impossible ; and the net receipts were to be divided among the two companies, 59 per cent. to the S.E.R., 41 per cent. to the Chatham, and “distributed by the respective boards in the same manner as would have applied if the Act had not been passed.”<sup>3</sup> The terms of division in 1875 had been about 67 per cent. to 33 per cent. ; the Chatham Company had greatly increased their mileage and their capital since then.

The working union of the S.E. and C.R. as the two companies are now commonly named,<sup>4</sup> has been spoken of as the first example of a new type of amalgamation.<sup>5</sup> The retention of separate capital accounts, and the combination of two such thoroughly competitive systems were certainly to some extent novel. But in the case of the North Eastern amalgamation in 1854 competitive companies had been united, and their capitals left distinct, and this fusion of operation but

<sup>1</sup> “An Act to provide for the Working Union of the S.E. and L.C. and D.R. Companies,” August 1, 1899 (62 and 63 Vict., c. 168).

<sup>2</sup> Section 4. By Section 11 Mr. Forbes was appointed “General Adviser.”

<sup>3</sup> Section 19.

<sup>4</sup> Properly “The South Eastern and Chatham Companies Managing Committee” (Section 4 Working Union Act).

<sup>5</sup> Departmental Committee, 1911 ; Evidence, Question 121. Mr. Marwood pointed out that the principle of combining competing companies had been applied in 1854, but did not mention the question of distinct capital accounts.

not of finances was cited by Sir Edward Watkin as a justification of the working union he proposed in 1877,<sup>1</sup> and the proposed union of the South Eastern, Brighton and Chatham in 1868 had similarly been based on the North Eastern pattern.<sup>2</sup>

However, it is permissible to consider the S.E. and C.R. union of 1899 as a new type, and the forerunner of the proposed working union of the Great Northern, Great Eastern, and Great Central Companies in 1909, and in one particular respect it introduced a new and very salutary feature ; it was effected deliberately and openly. Probably this accounted for the comparative ease with which it passed Parliament. The measure was fully advertised, and the public were given time to think it over and to see that it would be unwise to oppose it.<sup>3</sup> True it was in appearance a death-blow to the principle of competition. Many doubts had been expressed in earlier amalgamation proposals as to the likelihood of Parliament sanctioning a combination of two parallel companies so closely competitive as the South Eastern and the Chatham. The *Times* in 1892 took the view that Parliament would not sanction it, and one might have supposed that if ever an attempt was to be made to retain competition, here in the case of the Kentish lines, with their rival stations in every big town, amalgamation would be sternly discountenanced. But years of competition had shown the public that they gained no benefit, and moreover the chairmen of the two companies in their speeches made it clear that if they wished to abandon competition they had it

<sup>1</sup> "It worked well on the N.E.R." (South Eastern Railway Half-Yearly Meeting, January 18, 1877, Herapath, p. 56).

<sup>2</sup> Mihill Slaughter, "Railway Intelligence," No. XV. (January, 1869), p. 169. The North Eastern Stocks were consolidated in 1870.

<sup>3</sup> See the Reports of Half-Yearly Meetings in July and August, 1898 (Chatham : *Railway News*, August 6, p. 276. South Eastern : July 30, p. 201). See also the article on the Chatham Company in the *Railway Times* of August 6, and Report of South Eastern Meeting, January 26, 1899, p. 10.

in their power to do so.<sup>1</sup> They had been empowered to divide their Continental traffic by an Act of 1865 and by subsequent Acts. In 1894 Parliament approved of their making "agreements with respect to any competitive traffic."<sup>2</sup> These agreements might have been of little avail in the old fighting days. Mr. Forbes showed very clearly how the pooling of Continental traffic had been invalidated by arbitrations which decided how much each company was to receive (over and above the agreed proportions) on account of the extra traffic beyond those proportions which it carried. By successive arbitrations this allowance for working expenses had been raised to  $41\frac{1}{2}$  per cent.,<sup>3</sup> that is to say, for every passenger beyond its allotted share which one of the companies carried, nearly half his fare would be subtracted from the pool (to pay the working expenses of the carrying company) before the remaining half was divided between the two companies.<sup>4</sup> No doubt this liberal allowance for working expenses was not unwelcome to the South Eastern Railway. Had the percentage allowance been a very low one, the Chatham Company might have neglected its Continental traffic, quite content to let the South Eastern carry it, and to draw its fixed share from the pool. All that is tantamount to saying that if two companies distrust each other, no pooling arrangement can be satisfactory, since the allowances for working expenses, if assessed at a low figure, may damage the more active of the two

<sup>1</sup> Chatham Half-Yearly Meeting, August 2, 1899, p. 3 (*Railway News*). Mr. Forbes, after speaking of the great skill with which the Bill had been generalised in Parliament, said: "I believe we could have gone on without an Act, but it was more prudent to take Parliament into our counsels."

<sup>2</sup> See preamble of Working Union Act, 1899. The provisions of the Act of 1865 with respect to the division of Continental traffic receipts on a complicated scale of proportions are given in a schedule to the Act of 1899.

<sup>3</sup> L.C. and D. R. Half-Yearly Meeting, *Railway News*, August 6, 1898.

<sup>4</sup> For simplicity it is assumed that gross receipts are divided; in actual fact the arrangement would be more complicated.

companies, and if put at a high figure, may encourage them both to compete in spite of the pool. Certainly it was well worth their while to compete when the allowance was 41½ per cent.

But in 1898 they were tired of competition and the fighting days were past. They were ready to act together without unnecessary suspicion, and it was realized that competition could not be forced upon them against their will.<sup>1</sup>

Accordingly, the working union was sanctioned, due precautions being taken to safeguard the rights of other companies<sup>2</sup> and to secure existing facilities for local interests.<sup>3</sup> Some concessions were made to working men, thanks to the efforts of the London County Council,<sup>4</sup> and beyond the usual stipulations that charges should be based on the shortest route, and should be calculated as if the lines of the two companies were one stretch of railway,<sup>5</sup> the Act further required that the consent of the Railway Commissioners to any increase of rates or fares should be obtained, one month's notice of any proposed increase of rates being given instead of the fourteen days' notice required by the Traffic Act of 1888,<sup>6</sup> and similar notice in the case of proposed increases in fares. Beyond this, as Mr. Cosmo Bonsor informed his shareholders, no concessions were wrung from the companies either by deputations or by Parliament.<sup>7</sup>

It is not our intention to discuss the results of the

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<sup>1</sup> The Continental pool was ended by the Act of 1899, Section 27, providing that receipts from Continental traffic should be brought into the common account, like ordinary receipts, and without allowance for working expenses.

<sup>2</sup> Sections 34 to 39.

<sup>3</sup> Section 31.

<sup>4</sup> "The ubiquitous L.C.C." (Mr. Bonsor); "The kindly act of the L.C.C." (Mr. Forbes), Section 32.

<sup>5</sup> Sections 28 (6) and 30.

<sup>6</sup> Section 30.

<sup>7</sup> S.E.R. Half-Yearly Meeting, *Railway News*, August 5, 1899, p. 245.

working union;<sup>1</sup> that would entail a discussion of the change of policy adopted after 1899, the costly improvements effected, the expense of connecting lines that had been planned for independent working, the accompanying rise of prices, and general depreciation of railway property, which have combined to reduce the South Eastern from a prosperous company to one with a meagre dividend but a hopeful future. But as far as the public are concerned, the amalgamation has been abundantly justified. No one has regretted the disappearance of competition.

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<sup>1</sup> They are fully discussed in the evidence of Mr. F. H. Dent before the Departmental Committee, 1911.

## CONCLUSION

OUR historical review comes to an end here, with the last railway amalgamation of the nineteenth century, and it must be the work of a separate study to deal with the question of combination since 1900, and with what may be called the politics as opposed to the history of railways.

But a few words of summary and conclusion may be attempted. Some sixty years of amalgamation have given England a fairly comprehensive railway system, which is practically in the hands of the eleven great companies, set out in the following table:<sup>1</sup>

Company.	Mileage, Dec. 31, 1912.		Total Paid-up Capital, Dec. 31, 1912, (including Loans and Debenture Stock).
	(1) Geo- graphical.	(2) Single Track.	
L. and N.W.R.	1,969	5,535	£125,000,000
Midland - - -	1,533	4,860	£204,000,000
G.W.R. - - -	3,008	6,708	£99,000,000
G.N.R. - - -	863	2,677	£60,000,000
G.C.R. - - -	757	2,333	£53,000,000
G.E.R. - - -	1,133	2,550	£54,000,000
N.E.R. - - -	1,728	4,869	£81,000,000
L. and Y. - - -	591	2,201	£70,000,000
L. and S.W.R. - -	966	2,223	£56,000,000
S.E. and C.R. -	629	1,587	{ S.E.R. £32,000,000 L.C. and D.R. £30,000,000
L.B. and S.C.R.	454	1,246	£29,000,000

<sup>1</sup> The figures are taken from the Board of Trade Railway Returns for the year 1912 (Cd. 6954, 1913). Single-track mileage has only been given in the Returns of recent years; mileage figures hitherto mentioned in this book have in every case been geographical. On this question, see H. M. Ross, "British Railways" (1914), pp. 14-16, and *ibid.*, chap. xi., for the abnormal capital figure of the Midland.

Add to these the Taff Vale, the Cambrian, the Furness, the Hull and Barnsley, and the North Staffordshire ; the Metropolitan Railways and the joint lines worked by the great companies ; and we have the consolidated outcome of more than a thousand separate companies of earlier days.<sup>1</sup>

Through communications from all parts of England have constantly been improved and increased as the process of consolidation has gone on. Though the original error of haphazard construction has proved very costly, the small independent companies have gradually been absorbed and welded into fairly harmonious systems of communication, and the public have undoubtedly gained in transport facilities by the existence of lines which would have been considered unnecessary if a comprehensive scheme of railways had been planned in the first instance.

Throughout the history of the English railways, as we have attempted to show, Parliament has failed to devise a comprehensive scheme. "The control under the system of Private Bill legislation . . . has been mainly negative ; never constructive. . . . Private interests have been protected, but the general interest has in the main been ignored."<sup>2</sup>

All this has added to the cost of railway transport, and the public, especially the traders, are inclined to leave out of consideration the advantages they have gained from duplicate services, and to complain that the English railway rates are excessively high in comparison with those of some foreign countries. The factors needed for such comparison are not available ; all that can be said is that the English railways have cost more to construct than those of any other country.

<sup>1</sup> Mr. A. Beasley (Departmental Committee, 1911 ; Evidence, Question 18,341) made a calculation of the number of companies that had disappeared through consolidations ; he put the number at 933, but his calculations only dated from 1849.

<sup>2</sup> Sir George S. Gibb, "Railway Nationalization." A paper read before the Royal Economic Society, November, 1908, p. 10.

But the English railways are not responsible for this. "The railways were forced by law, and by custom powerful as law, to pay monstrously inflated values for their lands. Burden upon burden has been heaped upon them by the action of the legislature, by the requirements of Government Departments, and by the exactions of public opinion. They have borne heavy losses in being compelled to spend capital without regard to their ability to secure adequate return upon it, and assuredly no reckoning is due from them to the public in this matter. The reverse would be more true."<sup>1</sup>

Particular amalgamations have been feared because they appeared to give a company the power of increasing its charges. Undoubtedly, however, the effect of amalgamation generally has been to reduce charges. Given the existence of a number of small conflicting systems, which were often too short for economic operation, the alternatives were to shut up the least profitable and most expensive of them, which was practically out of the question, or to combine them into larger and more workable units, and effect what economies were possible. The amalgamation movement has rather enabled the companies to keep their heads above water than given them the monopolistic power of oppression which it was constantly thought they would possess. No doubt many companies have been prosperous, but they have never fully achieved that great but elusive prosperity which so constantly appeared to be in sight. Successive obstacles have been put in their way, and expectation rather than fulfilment has been their lot. Disillusionment, however, has not yet arrived, and the expectation of good times to come is still constantly recurring.

The modern companies are better managed than the smaller companies of the past, and the earlier doubts

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<sup>1</sup> *Ibid.*, p. 19.

as to the possibility or expediency of increasing the scale of operation have been set at rest ; there is every reason to believe that with modifications in the degree of centralized organization, further efficiency could be obtained by a further reduction in the number of companies, and a consequent extension of the field of operation. At present the largest railway system in England has but a seventh part of the mileage controlled by the management of a great American company. The advocates of nationalization in this country claim that there would be a positive gain in efficiency and economy if all the English railways were worked as a single State system.

We do not propose to discuss the problem of nationalization in detail. We need but indicate the obvious bearing of our historical study upon it. We have traced the evolution of the eleven great companies of to-day. There is no special magic in the number, no particular merit in the present division of railway power to justify the conclusion that this is the final outcome of amalgamation. Far from it ; we have seen that the South Eastern and Chatham fusion should logically be extended to include the Brighton Company. There is no reason to think that the Great Northern, Great Eastern, and Great Central Companies have for all time abandoned their desire to combine because they were obliged to withdraw their Working Union Bill of 1909. The North Western Company's notable attempts to amalgamate with the Midland in 1853, and with the Lancashire and Yorkshire in 1872, were failures, but at the present day these three companies are in close alliance, and they might welcome an opportunity of progressing from alliance to permanent consolidation. Clearly, therefore, further amalgamations may not unreasonably be expected, and it will naturally follow that if the railways of the country are concentrated in the hands of a still smaller number of companies than at present,

their final amalgamation into one State-system will appear all the more necessary, perhaps inevitable; moreover, the operation will be the easier to carry out in proportion as the number of companies to be combined under State management decreases. Amalgamation undoubtedly paves the way for nationalization.

But though one may see in the history of English railway consolidation a continuous process of preparation—an assembling of many scattered and disjointed railway units into an orderly and connected whole ready to be taken over by the State—one must also remember, on the other hand, what a poor and uncertain part the State itself has played in the process. It may seem unnecessary impertinence on our part to criticize the attitude of the greatest legislative assembly in the world ; we have tried throughout to show that the system rather than the assembly was to blame for the indeterminate and inconsistent treatment meted out to the railway companies ; that the error lay in entrusting railway questions to Parliament, and the inevitable consequence was that they received inadequate and spasmodic attention. But it is just this point that the modern advocate of railway nationalization neglects to consider. His arguments are worthless, his case an idle one, so long as he talks at large of the evils of private railway companies, and the advantages of State management. The question is not a general one ; it is not possible to say all private companies are bad, all State railways are good, or *vice versa*. State systems and private systems may be good, bad, or indifferent, according to the various circumstances of different countries, and the vital question so far as England is concerned is this : “How would the nationalized railways be managed ?” or “What system of nationalization, if any, is compatible with the sovereignty of Parliament ?” If the problem is to be faced in a serious and scientific spirit in this country, it is that question that should receive the first consideration. Mr.

Acworth put the problem in a concise form in his address as President of the Economic Section of the British Association in 1908, when he contrasted the supremacy of Parliament in this country with the power of Government Departments in Continental countries. Quoting from Charles Francis Adams, he said : "France and Germany are essentially executive in their Government, while England and America are legislative. The executive may design, construct, or operate a railroad ; the legislative never can."

It is hardly conceivable that an independent Railway Board would ever be established in England, but we believe that the history of the railways points to that as the happiest solution of the problem, and it is to be hoped that public attention will be concentrated upon this aspect of the nationalization question, and that it will at least be realized how great a risk would be run if the management of a national railway system were liable to be disturbed by the varying decisions of Parliament. Certainly a compromise should be possible ; a Railway Board with a wide and permanent control might be created, and the possibilities of Parliamentary interference rendered as remote and rare as possible without actually depriving the Legislature of its sovereign control.

And in any case, whether the transference of the railways to the State need be considered or not, the necessity of establishing a controlling body remains, for it is generally agreed nowadays that competition is practically ceasing to have any real operation in regulating the English railroads. We have seen the principle working in various guises throughout our story, and we have noticed how one Inquiry after another from 1839 onwards foresaw that competition was failing, and would shortly cease to exist. Their anticipations were not immediately realized. As amalgamation went on, particular outbursts of rivalry were ended by alliance, but the result was rather "to

effect a redistribution of the competitive points "<sup>1</sup>" than to put an end to competition. The crude struggles of early days were not repeated ; the companies began to put a curb on each other by conferring together as to their rates, and competition was mitigated not only by their growing appreciation of a community of interests, but also by the unifying effects of legislation on through rates and on revision of rates. But still Parliament did not altogether despair of competition ; in 1854, 1873, and 1888, it found that the principle still existed in some limited shape, and passed laws with the object of securing and strengthening the competition that survived.

In 1894, however, what is generally considered as a new phase was ushered in. Parliament reversed principles and precedents in a remarkable way. The Traffic Act of that year practically debarred a railway company from altering the rates that were in force in 1892, no matter how far those rates might be below the revised maxima rates awarded to the companies in 1891 and 1892 after a most searching inquiry. Parliament, in fact, gave the companies certain powers, and two years later put almost impossible restrictions in the way of their exercise. Incidentally, this removed whatever danger there might have been of rates being raised on amalgamation, but the noticeable point is that the Act was more destructive of competition than any number of amalgamations. The possibility of raising a rate became a remote hazard, contingent upon satisfying the Railway Commissioners on points which in many cases were incapable of proof. The most enterprising competitor will hesitate to cut his prices when he knows that he may not be able to raise them again should his experiment fail. The English

<sup>1</sup> "Competition and Combination in Railway Transportation in Great Britain," by W. R. Scott, 1910, p. 15. In this paper, read before the Royal Philosophical Society of Glasgow, Dr. Scott has made an interesting analysis of the present position.

railway managers appreciated this. They had voluntarily refrained from active competition in rates for years before this,<sup>1</sup> but there had been no compulsion, and had they wished to experiment they were free to do so. After 1894 they had the positive restraint of an Act of Parliament to convince them of the folly of direct competition in rates. Such competition is dead.

No doubt the competitive spirit remains; it is inherent in every undertaking that possesses a possible rival and a grain of self-respect. It is evidenced among the railways in modern times by great improvements in facilities, lavish outlay on advertising, and increased attention to holiday and excursion traffic—innovations partly aimed at non-railway competitors, partly due to the desire of the companies to vie with each other in the attractions they offer to customers.

But this is not the type of competition that was relied upon as a control and a means of regulating the railways in early days. Competition then meant, first, the power of coercing a company by authorizing a rival line, and secondly, the constant check upon exorbitant charges which was imposed by the existence of an alternative route.

As to the first, the period of construction is now ended, the rival lines have come into existence, and after a spell of competition have come to terms with their neighbours. Sir George Gibb has made a valuable distinction between what he calls the age of construction and the age of operation, and has shown the necessity of reconsidering the question of control when the first period has closed.<sup>2</sup> As to the second,

<sup>1</sup> See Select Committee on Railways, 1881 (No. 226); evidence of Robert Baxter, solicitor and Parliamentary agent (also a coal owner), who had acted for the G.N.R. at the time of their incorporation in 1846: "As business men, the companies are slow to excite dissatisfaction and jealousy by altering rates; they lay their heads together and avoid competition" (Questions 9,242-58). See also Grierson (12,851); Farrer (16,376); Hickman (4,442); Hingley (5,708).

<sup>2</sup> *Op. cit.*, p. 9.

amalgamation was always tending to bring rivals together and to terminate the check which they might impose upon one another. Parliament realized this, and whatever criticisms we may offer, it must be allowed that the Legislature did the most sensible and obvious thing in seeking to establish a tribunal that could grant redress to all who suffered through excessive rates or undue preference.

More, however, is required to-day when the competition that remains is "half-hearted and imperfect," and bears little relation to the earlier competition which was relied upon to regulate railway affairs. Even the traditional view of Committees of Inquiry has changed; where previous Inquiries recommended that some small remaining element of competition should be bolstered up, the Departmental Committee of 1911 found that "the effects of the limited degree of competition still existing between railway companies are not necessarily to the public advantage," and they concluded that both the railways and the public would gain by "a properly regulated extension of co-operation rather than a revival of competition."<sup>1</sup> ↙

We have suggested that the various Committees erred in anticipating the immediate disappearance of competition, but the matter is not of great importance, for they showed in their Reports that some other form of control was necessary. Had they said "whether competition continues or not it is in any case insufficient," the real purport of their recommendations would have been better expressed. And we suggest that this is the true interpretation of their words; that competition was never at any time a satisfactory method of regulating the railways. Gladstone considered it inadequate as early as 1844. From then onwards the men who studied the question aimed at establishing systematic regulations instead of depending upon a

<sup>1</sup> Report, pp. 18 and 40.

principle which must damage the railways if actively carried on by them, and must hamper and unsettle them if held over their heads as a "powerful engine of control in the hands of the State." In one form and another they planned positive methods of control, and that is still the essential requirement. Whatever the future may bring, a strong, continuous, certain, and comprehensive policy of State control must be evolved, and the outstanding lesson to be drawn from the history of English railways is the danger of entrusting control to the Legislature. The central problem, whether the railways remain in private hands or be taken over by the State, is the creation of a permanent Board of Control, and one as far removed as is possible from the interference of Parliament.

# INDEX

Abandonment of Railways, etc.,  
Act, 179

Accounts, 111, 146, 174, 220, 266

Act to make better provision, etc.,  
1873, 266-279

Allport, James, 182, 187, 250, 261-  
263

Amalgamation of railways :  
Cardwell's Committee, 181-190  
commenced, 9-12, 18-22  
crisis of 1847, 170-173  
Dalhousie's Railway Board,  
136-137  
general summary, showing  
tendency towards nationaliza-  
tion, 315-324

Great Western *v.* South  
Western, 280-287

London and North Western,  
51-57

Midland, 42-51

North Staffordshire negotia-  
tions, 290-291

period 1840-1871, 234-235

period 1854-1871, 220-227

popularized by George Hud-  
son, 38

Railway Clearing House, 173-  
178

revival, 1872, 234, 238-250

rise and decline in the forties,  
23-36

Royal Commission, 1865-67,  
217-219

schemes proposed in 1872, 179-  
180

Select Committee of 1872, 251-  
265, 268-269, 275-279

Select Committees of 1846,  
1852-53, 1872, 59-60

Sheffield Company, 291-296

South Eastern and Chatham,  
296-314

Wilson Patten's Committee,  
127-132

Arbitration :  
Act of 1859, 218

Act of 1873, 276

Board of Trade, 78-79

Cardwell's Bill, 1854, 196-197,  
204

Government purchase terms,  
109-110, 114, 121

Inquiry of 1872, 257

Bank Charter Act, 161

Bank of England, 159-161, 167

Baxter, Robert, 182

Belper, *see* Strutt

Bentinck, 190, 274

Birmingham and Derby Railway,  
43-51, 177

Birmingham and Gloucester Rail-  
way, 27, 50, 177

Birmingham Canal Navigations,  
91

Board of Trade :  
beginning of State control  
through the, 76-79

Dalhousie's Railway Board,  
133-141

form of Returns altered, 221

Gladstone's Bill, 114-115

G.W. *v.* L. and S.W.R., 282-  
283

Inquiry of 1872, 258-260, 267

Railway Commissioners, 1846-  
1851, 148-151

Railway Commissioners, 1873,  
270-271

Report of 1845, 127-128, 131-132

Royal Commission, 1865-67,  
218-219

sanction of working agree-  
ments, etc., 196, 211-212, 218-  
219

Select Committee, 1857-58, 206-  
207

Traffic Act of 1854, 191, 193,  
196-202

Bonsor, Cosmo, 310, 313  
 Bouverie, 202, 206  
 Brassey, 31  
 Bridgewater Canal, 84, 188  
 Bright, John, 117, 181  
 Bristol and Exeter Railway, 234, 249-250, 284, 286-287  
 Bristol and Gloucester Railway, 27, 50  
 Bristol turnpike consolidation, 13-15  
 Broad gauge, 23, 50, 52-53, 57-58, 286  
 Brougham, Lord, 169, 171  
 Brunel, I. K., 57-58

Caledonian Railway, 227, 238, 243  
 Campbell, Colin, 290  
 Canals :  
     Act of 1873, 276  
     attitude of railways towards, 82, 91-92  
     attitude towards railways, 83-85  
     bad organization and management, 93-95  
     competition between railways and, 81-101  
     consolidation of, 10-12, 99-101  
     consolidation with railways, 25, 65, 88-98, 129  
     effect of introduction of steam-ships, 95  
     effects of speculative enthusiasm in 1846, 92-93  
     Inquiry of 1872, 96-99, 255-257  
     Report of the Committee of 1840, 86-87  
     Royal Commission of 1909, 91, 98-99  
     some dividends, 68, 85-86  
     State purchase, 97  
     suggested supervision by a Government Department, 141-142  
 Capital engaged in railways, 164-168, 237, 241, 315  
 Cardwell, Edward, 104, 122, 161, 206, 273  
     *see also* Cardwell's Act and Cardwell's Committee  
 Cardwell's Act, 60, 191-204, 218  
 Cardwell's Committee, 65, 176-177, 205-207, 209, 218  
     appointment and members, 181  
     competition *v.* monopoly, 184-188

Cardwell's Committee—*continued*:  
     control by a Permanent Committee of Parliament, 184, 185, 257  
     gauge question, 58, 284-285  
     recommendations as to amalgamation, 59-60, 95-96, 172, 182-184, 186-190, 192, 262  
     views on railway legislation, 60, 185, 284  
     witnesses examined, 182  
     working arrangements, 183-184, 189-190, 231

Carlingford, *see* Fortescue, Chichester  
 Cave, Sir Stephen, 253, 274  
 Cawkwell, 252, 261, 263-264  
 Cecil, *see* Salisbury  
 Chandos, Lord, 201-202  
 Channel Tunnel, 297  
 Charges, *see* Fares and charges  
 Cheshire Lines Committee, 291  
 Chester and Crewe Railway, 21-22  
 Childers, 252-253, 264  
 Classification Committee, 1846, 126  
 Clearing House, *see* Railway Clearing House  
 Clerk, Sir George, 126-128, 143  
 Cohn, Gustav, 116, 247-248, 258, 267  
 Committee system, advantages of, 214-215  
 Competition :  
     between the S.E. and Chat-ham, 298-299, 306  
     Cardwell's Committee, 184-188  
     comparison of past and present forms of, 322-324  
     decline of, 320-322  
     effects on fares and charges, 107, 130  
     Gladstone on, in 1844, 119  
     Inquiry of 1872, 251-264  
     Laing's Report, 1844, 131  
     Midland Railway, 245  
     period 1840-1871, 234-235  
     railway campaign of 1872, 240, 246  
     Railway Commissioners, 1846, 148  
     standing order on, 209  
     *v.* monopoly, 67-74, 80, 88-89, 122, 251  
     working unions take the place of, 311-313  
 Consolidation, *see* Amalgamation  
 Control of railways by a permanent Government Board, 320, 324  
 Cardwell's Committee, 184, 185

**Control of railways—continued :**  
 Inquiry of 1872, 60-61, 251,  
 258-260  
 Morrison's Committee, 90,  
 129, 145-146  
 Railway Commissioners, 1846-  
 1851, 147-157  
 Report of 1839, 74-75  
 Royal Commission, 1865-67,  
 213-214  
 Select Committee of the House  
 of Lords, 1846, 90  
 Select Committee of 1863, 209-  
 211  
 Wilson Patten's Committee,  
 130-132, 141-142  
*see also* State control of rail-  
 ways  
 Cornwall Railway, 286-287  
 Court of Common Pleas, 193, 276  
 Cowper, Lord, 252-253  
 Cranbourne, *see* Salisbury  
 Crisis of 1847, 158-172  
 of 1866, 228-232  
 Cross, 253  
 Dalhousie, Lord, 126  
 Railway Board, 132-142, 149,  
 151, 282-283  
 Dawson, P. W., 260  
 Denison, Evelyn, 181, 239, 262-263,  
 274  
 Departmental Committee of 1911,  
 61, 323  
 Deputation against Gladstone's  
 Bill, 1844, 121-123  
 Dicey, T. E., 45-49  
 "Discrimination," 192-193  
 District Railway, 304  
 Dividends :  
   high fares and, 122-123  
   limitation of, 67-70  
 East Anglian Railway, 28, 225  
 East Kent Railway, 297-298  
 East London Railway, 281  
 Eastern and Midlands Railway, 280  
 Eastern Counties Railway, 29, 37,  
 39-41, 225-226  
 Eastern Union Railway, 225  
*Economist*, 245, 266  
*Edinburgh Review*, 248  
 Fares and charges :  
   complaint of high, 122-123, 316  
   effect of amalgamation genera-  
     ally, 317  
   Gladstone's Bill, 1844, 108,  
     111-115, 122-123

**Fares and charges—continued :**  
 Inquiry of 1872, 256-257  
 Morrison and revision of tolls,  
 67-70  
 Morrison's Committee, 142-143  
 Traffic Act of 1894, 321-322  
 Wilson Patten's Committee,  
 130  
 working union between S.E.  
 and Chatham, 313  
 Farrer, Thomas Henry (after-  
 wards Lord), 258-259  
 Forbes, J. S., 302-314  
 Fortescue, Chichester, 251-252  
   Act of 1873, 266-279  
 Fortescue, Lord, 209  
 Galton, Capt. Douglas, 206-207,  
 231-232  
 Gauge question, 52, 57-58, 65, 185,  
 284-286  
 General Committee on Railway  
 and Canal Bills, 1854, 199-203,  
 206-207  
 Gisborne, 69, 120  
 Gladstone :  
   Act of 1842, 78  
   Cardwell's Committee, 181,  
     189-190  
   in 1846, 128  
   Inquiry of 1872, 252  
   policy in 1844, 102, 323  
   Railway Commissioners, 1846-  
     1851, 150-151  
   Royal Commission, 1865-67,  
     213  
   Select Committee, 1857-58, 206  
*see also* Gladstone's Act and  
 Gladstone's Committee  
 Gladstone's Act of 1844, 104-124,  
 136, 188  
 Gladstone's Committee, 1844, 63,  
 88, 102-124, 134, 155-156, 204,  
 205  
 Glasgow and South Western Rail-  
 way, 60, 233, 238, 243-244, 248-249  
 Glyn, G. C., 52-54, 56, 104, 121,  
 161, 166, 171, 174  
 Gooch, Sir Daniel, 250, 268  
 Government purchase :  
   Gladstone's Bill, 1844, 108-115,  
     117, 121, 123-124  
   Royal Commission, 1865-1867,  
     216-217  
   Select Committee of 1839, 72  
   views on, in 1872, 245-248,  
     253, 254, 259  
*see also* Nationalization of  
 railways

Grand Junction Canal Company, 89  
 Grand Junction Railway, 9, 19-22, 23, 27, 51-57, 75, 131, 137, 177  
 Great Central Railway, 61, 237, 293-296, 311, 315, 318  
*see also* Manchester, Sheffield and Lincolnshire Railway  
 Great Eastern Railway, 315  
 formation, 172, 222, 225-226  
 proposed working union with G.N. and G.C., 61, 296, 311, 318  
 relations with Midland, G.N. and G.C., 291, 295-296  
 Great North of England Railway, 21, 28, 34, 36, 43, 177, 222  
 Great Northern Railway, 315  
 Dalhousie's Board, 140-141  
 hostility to proposed amalgamation of the Midland and L. and N.W., 186, 262  
 Hudson, 40-41  
 negotiations *re* Sheffield Co., 291-295  
 Parliamentary contest, 43, 140-141  
 proposed working union with G.E. and G.C., 61, 296, 311, 318  
 small extensions and fusions, 244, 280  
 Traffic Act of 1854, 199  
 various combinations and oppositions, 295-296  
 various proposed amalgamations or working arrangements, 233-234, 238-240  
 working arrangement with L. and N.W.R., 190  
 Great Western Railway, 9, 23, 42-43, 49, 315  
 gauge question, 57-58  
 L. and N.W. amalgamation, 52-53  
 outside the Clearing House, 176-177  
 struggle with the L. and N.W. for Shrewsbury lines, 186-187, 226  
 struggle with the South Western, 281-287  
 Traffic Act of 1854, 199  
 various fusions, 26, 29, 32, 226-227, 237, 250  
 various proposed amalgamations or working arrangements, 233-234

Great Western Railway—*continued*:  
 ments, 50, 171, 234, 238, 249-250  
 Grierson, 249, 261-262  
 Hadley, Professor A. T., 67, 149, 152, 212, 270  
 Haughton, 238, 240, 262  
 Henley, 180-181, 194, 205-206, 273-274  
 Herapath, 242, 248, 266  
 Highways, Select Committee on, 1808, 1, 13  
 Hudson, George, 104, 121, 126, 130, 150, 174, 181  
 crisis of 1847, 161, 167-171  
 his history and character, 36-42  
 London and York Railway, 40-41, 140  
 Midland amalgamation, 42-51  
 Morrison compared with, 66  
 Morrison's Committee, 143  
 Sir Edw. Watkin compared with, 289  
 Huish, Capt. Mark, 53, 55, 104, 174, 182, 187  
 Hunt, Ward, 253, 274-275  
 "Imperial" policy of amalgamation, 278  
 Inglis, Sir James, 91-92  
 Interchange of traffic, facilities for, 192-195  
 Irish Railway Bills, 126  
 Joint Select Committee of 1872, *see* Select Committees  
 Labouchere, Rt. Hon. H., 77, 143, 148-153, 161, 180, 181, 202  
 Laing, Samuel, 52, 88, 104, 122-123, 131, 135, 182  
 Lancashire and Yorkshire Railway, 27, 30, 177, 188, 227, 315  
 proposed amalgamation with the L. and N.W., 60, 233-235, 238, 241-246, 262-264, 318  
 Lardner, Dr., 177  
 Laws, Captain, 104, 174, 182  
 Leases and purchases, 29-36, 142, 146  
 Leeds and Selby Railway, 9, 29, 42, 177  
 Leeds Northern Railway, 222  
 Legislation (railway), system of, 153-156, 185, 197-198, 203, 204, 205-212, 284, 316, 319-320, 323-324

Leicester and Swannington Railway, 9, 27

Liverpool and Manchester Railway, 7, 9, 19-20, 27, 51, 56, 76, 84, 137, 188

Locomotive engine:  
in general use, 23  
introduction of, 6-7  
trials at Rainhill, 7

London and Birmingham Railway, 9, 20, 27, 42, 43, 46, 47, 49, 51-57, 71, 75, 80, 91, 137, 177

London and Brighton Railway, 27, 33

London and Croydon Railway, 9, 27, 299-300

London and Greenwich Railway, 9, 33

London and North Western Railway, 315  
competition with G.W., 186-187  
formation, 27, 51-57, 173  
G.N.'s proposal for agreement, 234  
proposed amalgamation with L. and S.W. and G.W., 171  
proposed amalgamation with L. and Y., 60, 233, 235, 238-249, 262-264, 318  
proposed amalgamation with Midland, 57, 59-60, 183, 186, 262, 318  
Sheffield Company, 290-291  
struggle with G.W. for Shrewsbury lines, 186-187

Traffic Act of 1854, 199  
various fusions, 29-32, 227, 281  
working arrangement with G.N., 189-190

London and South Western Railway, 9, 315  
outside the Clearing House, 176  
struggle with the G.W., 280-287  
various extensions, 32  
various proposed amalgamations or working arrangements, 60, 171, 234, 238, 249-250

London and York Railway, 42-43, 140-141

London, Brighton and South Coast Railway, 315  
formation and extensions, 27, 33

London, Brighton and South Coast Railway—*continued*: outside the Clearing House, 176  
proposed amalgamation with L. and S.W., 60  
relations with S.E. and Chatham Railways, 238, 299-302, 307, 311, 318

London, Chatham and Dover Railway, 240, 297-314

London County Council, 313

London, Lewes and Brighton Railway, proposed 1866, 300-301

London (North) turnpike consolidation, 15-16

London, Tilbury and Southend Railway, 296

McAdam, 2, 15

McClean, John Robinson, 31

MacGregor, 300

Macnamara, 271

Mails and troops, carriage of, 108, 113, 146, 257

Manchester and Birmingham Railway, 27, 51-57, 177

Manchester and Leeds Railway, 27, 177

Manchester, Buxton, and Matlock and Midland Junction, 30

Manchester, Sheffield and Lincolnshire Railway, 27, 233, 237, 239-240, 262, 288-296

May, T. Erskine, 207, 210

Merchant Shipping Act, 203

Metropolitan Railway, 296, 304

Midland Counties Railway, 43-51, 177

Midland Railway, 315  
Allport's evidence before the Inquiry of 1872, 262-263  
formation, 26, 37, 42-51, 173  
Hudson, chairman of, 40-41  
Laing's report, 131  
opening of St. Pancras, 233  
opposition to West of England Traffic Arrangements Bill, 249-250  
proposed amalgamation with Glasgow and South Western, 232-234, 238, 243-249

proposed amalgamation with L. and N.W., 57, 60, 183, 186, 262, 318

proposed amalgamation with Worcester and Birmingham Canal, 96

Midland Railway—*continued*:

- proposed working arrangements, 234
- Sheffield Company, 239-240, 262, 290-296
- Traffic Act of 1854, 199
- traffic of canals compared with that of, 82
- various fusions, 27, 30, 250, 280, 282, 286

Mileage statistics, 164, 226-227, 237, 241, 315

Monopoly and competition of railways, 67-74, 78-80, 88, 122, 184, 186-190, 238, 245, 251-264, 278

Moon, 266-267

Morrison, James, 41, 66-70, 80, 111, 135, 163, 171  
*see also* Morrison's Committee

Morrison, Kenneth, 174

Morrison's Committee, 63, 90, 128, 129, 139, 142-147, 300

Narrow gauge, 23, 50, 52, 57-58, 282

Nationalization of railways, 318, 320, 324  
*see also* Government purchase and State control

Newcastle and Berwick Railway, 28, 40, 222

Newcastle and Darlington Junction Railway, 28, 34, 40, 177, 222

Newmarket Railway, 225

Norfolk Railway, 29, 225

North British Railway, 227, 238, 243-244

North Eastern Railway, 28, 172, 177-178, 183, 184, 222-225, 235, 238, 261, 310-311, 315

North London Railway Bill, 202

North Midland Railway, 23, 43-50, 177

North Staffordshire Railway, 234, 290-291

North Union Railway, 18-20, 26, 30, 131, 177

North Western Railway, 30

Parliament:

- and railway problems, 59-72
- attitude of, 1854-71, 205-212
- see also* Legislation

Patten, Wilson, 143, 181, 205, 206, 208, 251  
*see also* Patten's Committee, Wilson

Patten's Committee, Wilson, 127-132

Peel, Sir Frederick, 271-272

Peel, Sir Robert, 103, 111, 116-117, 120, 121, 128, 135, 139-140, 157, 159, 161, 181

Post Office and railways, 62  
*see also* Mails and troops, carriage of

Potter, Richard, 247

"Preference," 192-193

Preston and Wigan Railway, 18-19

Preston and Wyre Railway, 30, 177

Price, 206, 247, 252, 261, 266, 271

Private Bill system, 153-156, 207-210, 284, 316

Purchase, *see* Government purchase

Purchases and leases in the forties, 29-36

*Quarterly Review*, 248

Quay Canal, 84

Railway and Canal Commission, proposed 1872, 256-257, 277  
*see also* Railway Commission, 1873

Railway and Canal Traffic Act, 1854, 98, 191-203, 218, 232, 256, 268-270

Railway and Canal Traffic Act, 1873, 98, 268-279

Railway Clauses Act, 1845, 192

Railway Clauses Act, 1863, 211

Railway Clearing House:

- effects on amalgamation, 33-34, 175-178
- establishment and objects, 173-175
- evidence of P. W. Dawson before the Joint Select Committee of 1872, 260-261

Railway Commission, 1846-1851, 132, 147-157, 164

Railway Commission, 1873, 61, 98, 268-279, 286, 313, 321

Railway Companies Act, 1867, 230

Railway Companies Powers Act, 1864, 211

Railway promotion:

- checked, 1837, 23; by crisis of 1847, 24, 154, 158-163, 168-170; by crisis of 1866, 228-231
- increased expense of, 209
- popularity, 1833-1837, 8; 1843-1847, 24, 26, 35, 92-93, 125, 153-154
- resolutions carried by Sir Robert Peel, to prevent fraud in, 157

*Railway Times*, 165, 219, 223  
 Railways Construction Facilities Act, 1864, 211  
 Rainhill, locomotive trials at, 7  
 Rates, *see* Fares and Charges  
 Rates Inquiry, 1882, 98, 271  
 Reading, Guildford and Reigate Railway, 29, 33  
 "Reasonableness," 192, 194-195, 204  
 Redesdale, Lord, 180, 210, 251-253, 264  
 Regulation of Railways Act, 1840, 76-77  
 Regulation of Railways Act, 1868, 220  
 Regulation of Railways Act, 1873, 195  
 Richmond, Duke of, 139  
 Ripon, Lord, 252  
 Royal Commission of 1865-1867, 212-220  
 Russell, Lord John, 143, 161, 203  
 Russell, Sir George, 309  
 St. Pancras Station opened, 233  
 Salisbury, Lord, 206, 251-253  
 Saunders, 104, 182, 186-187  
 Scott, Robert, 94  
 Select Committees :  
     list of chief, 1838-1853, 62-64  
     of 1839, 71-75  
     of 1840, 75-77, 86-88  
     of 1844 (Gladstone's), 88, 102-109, 155-156  
     of 1846 (House of Lords), 147  
     of 1846 (Morrison's), 142-147  
     of 1846 (on Railway Bills), 125-126  
     of 1846 (Wilson Patten's), 59, 88-90, 93-94, 129-132  
     of 1852-1853 (Cardwell's), 59-60, 181-204, 284-285  
     of 1852-1853 (to revise Standing Orders), 199  
     of 1857-1858, 205-208  
     of 1858 (House of Lords), 207  
     of 1863, 208-211  
     of 1872 (Joint), 60-61, 96-100, 219-220, 249, 251-265, 277-279  
 Seymour, Lord, 76  
 Shrewsbury and Birmingham Railway, 186, 226  
 Shrewsbury and Chester Railway, 186, 226  
 Shrewsbury and Hereford Railway, 31  
 Sibthorpe, Colonel, 147, 151  
 Somerset and Dorset Railway, 250, 280, 286  
 South Devon Railway, 234, 249-250, 286-287  
 South Eastern Railway, 29, 33, 176, 238, 240, 288, 296-314, 315, 318  
 South Midland Company, projected, 234  
 South Staffordshire Railway, 31  
 South Wales Railway, 227  
 Southampton and Dorchester Railway, 32, 282  
 Speculation, *see* Railway promotion  
 Stanley, Lord, 69-70  
 State control of railways :  
     beginning of, 72-80  
     Gladstone's Bill, 1844, 102, 103, 115, 122-124  
     *see also* Control of railways by a permanent Government Board, Government purchase, and Nationalization of railways  
 State management, *see* State control of railways  
 State purchase, *see* Government purchase  
 Stephenson, George, 6-7, 57  
 Stephenson, Robert, 44-45, 143, 145-146, 174, 182, 187-188, 206  
 Stockton and Darlington Railway, 6, 9, 21, 57, 177-178, 223-224  
 Strutt, Rt. Hon. Edward, 148-150, 181, 252-253  
 Surrey Iron Railway, 5  
 Taff Vale Railway, 281  
 Telford, 2, 13  
*Times*, 238, 311  
 Tolls, *see* Fares and charges  
 Traffic Act, *see* Railway and Canal Traffic Act, 1854  
 Traffic, Facilities for interchange of, 192-195  
 Trent and Mersey Navigation Company, 5  
 Trevithick, 6  
 Troops and mails, carriage of, 108, 113, 257  
 Turnpike roads, 1-4  
     consolidation of, 12-18  
 Tyler, Capt., 230-232, 258-260, 277  
 Walker, Adam, 3  
 Warrington and Newton Railway, 19-21

Watkin, Sir Edward, 239-240, 246, 261, 262, 288-311  
 West London Railway, 30  
 West Midland Railway, 226-227  
 West of England Traffic Arrangements Bill, 249  
 Wigan Branch Railway, 18-19  
 Wilson, Thomas, 96  
 Working agreements or arrangements between companies :  
     Board of Trade's sanction, 211, 218-219  
     Capt. Douglas Galton's evidence before the Select Committee of 1858, 231  
     Cardwell's Bill, 1854, 196-197, 201, 204  
     Cardwell's Committee, 183-184, 189-190  
     Cawckwell's evidence before the Inquiry of 1872, 263

Working agreements or arrangements between companies continued :  
     included in Board of Trade Returns, 221  
     Railway Commissioners' (1873) sanction, 276  
     S.E. and Chatham working union, 288, 310-314  
     various proposed Bills 234  
     West of England Traffic Arrangements Bill, 249  
 Workmen, concessions to, 257, 288  
 York Alliance, 223  
 York and Newcastle Railway, 28  
 York and North Midland Railway, 29, 37, 40, 43, 177, 222  
 York, Newcastle and Berwick Railway, 28, 183, 222

Map  
OF  
ENGLAND  
SHEWING  
EXISTING RAILWAYS JUNE 1848

(FROM "ACCOUNTS AND PAPERS" 1847-8, VOL NO 510)  
RETURN OF ALL EXISTING RAILWAY AMALGAMATIONS ETC.

REFERENCE

York, Newcastle and Berwick

Y.N & B

Stockton and Darlington

S.D.

Y & N.M

M.R.

Midland

L.Y

Lancashire and Yorkshire

L&N.W.R

London and North Western

M.R.

Manchester, Sheffield and Lincolnshire

G.W.R.

Great Western

E.C.

Eastern Counties

S.E.R.

South Eastern

L.B. & C.R.

London Brighton and South Coast

L.S.W.R.

London and South Western

L.C.

OTHER RAILWAYS

N.C.C.

1 Lancaster and Carlisle

M.C.C.

2 Newcastle and Carlisle

E.L.

3 Maryport and Carlisle

B&W.Y

4 East Lancashire

C.H.

4A Bolton and West Yorkshire

C.B.

5 Chester and Holyhead

S.C.

6 Chester and Birkenhead

E.L.

7 Shrewsbury and Chester

N.K.R

8 East Lincolnshire

E.A.

9 Norfolk

E.U.

9A East Anglian

B&E

10 Eastern Union

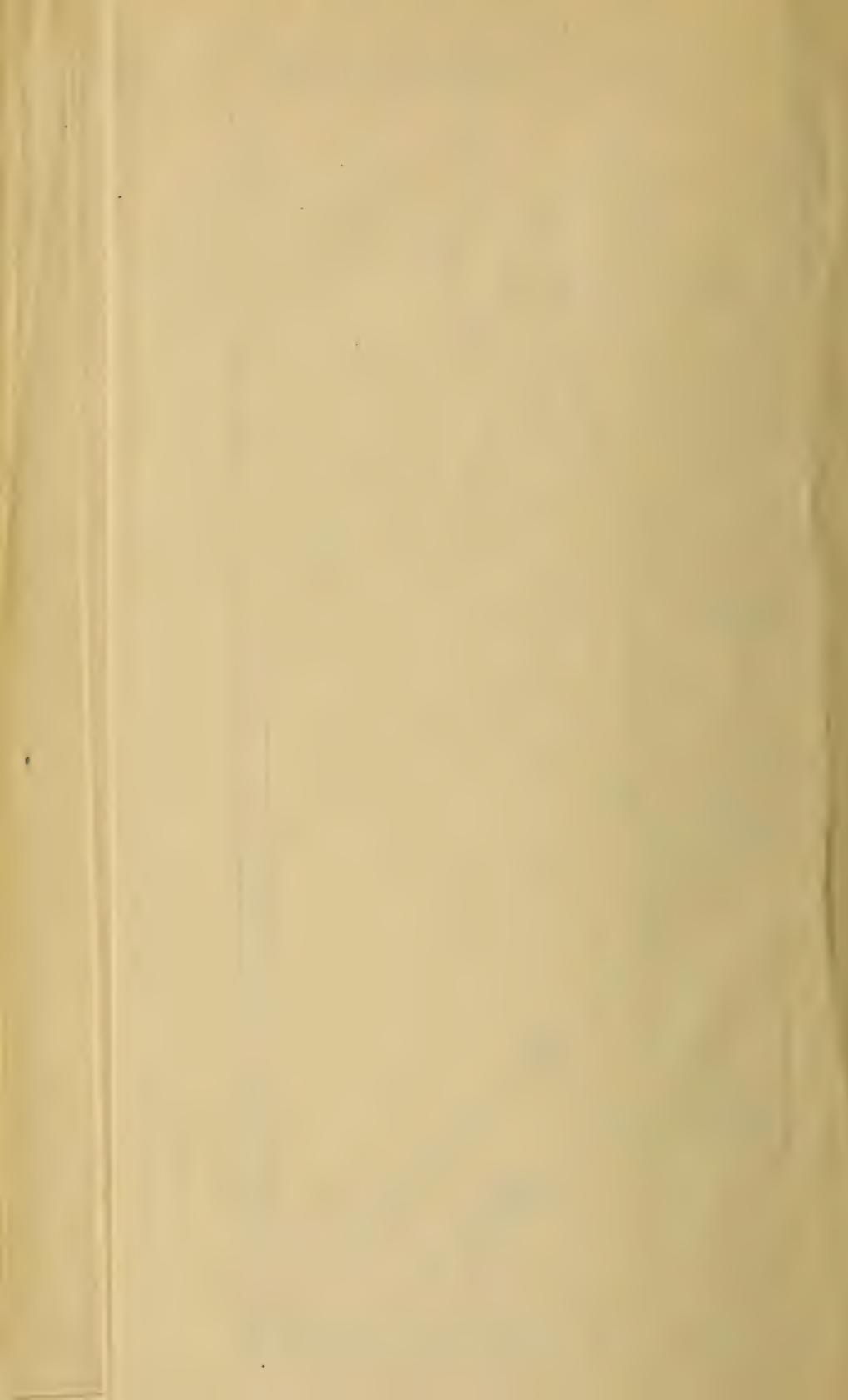
S.D.

11 Bristol and Exeter

L.

12 South Devon

SCALE OF ENGLISH MILES



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